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**FOREIGN TERRORISTS IN AMERICA: FIVE YEARS
AFTER THE WORLD TRADE CENTER**

Y 4:J 89/2: S.HRG.105-703

Foreign Terrorists in America: Five Years after the
World Trade Center, S. Hrg. 105-703, February 24,

HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

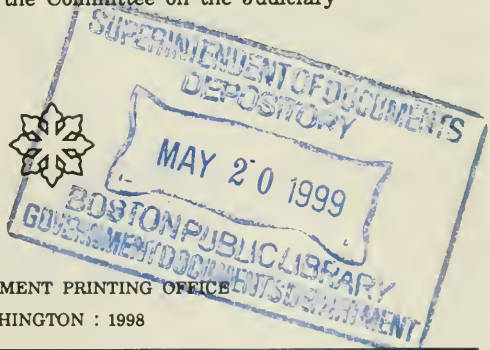
ON

EXAMINING THE EXTENT OF AND POLICIES TO PREVENT FOREIGN
TERRORIST OPERATIONS IN AMERICA

FEBRUARY 24, 1998

Serial No. J-105-75

Printed for the use of the Committee on the Judiciary



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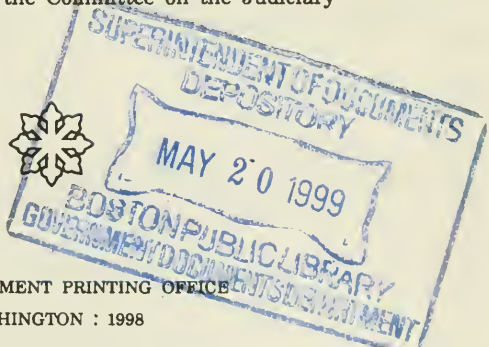
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FOREIGN TERRORISTS IN AMERICA: FIVE YEARS AFTER THE WORLD TRADE CENTER

TUESDAY, FEBRUARY 24, 1998

U.S. SENATE,
SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:07 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Jon Kyl (chairman of the subcommittee) presiding.

Also present: Senators Grassley and Feinstein.

OPENING STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator KYL. This hearing on the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information will come to order. Welcome, Senator Feinstein.

This morning we have three panels of witnesses. Let me tell you who the panels are, and then I will make a brief opening statement, turn to Senator Feinstein, and then we will immediately turn to our first panel.

That first panel is: J. Gilmore Childers, Esq., of Orrick, Herrington & Sutcliffe, New York City; Henry J. DePippo, Esq., of Nixon, Hargrave, Devans & Doyle, in Rochester, NY; and Patrick J. Colgan, Jr., PBL Associates, Wyckoff, NJ—all of whom had key roles in the World Trade Center case.

The second panel is Dale L. Watson, section chief for International Terrorism Operations of the FBI here in Washington; Walter D. Cadman, counterterrorism coordinator of the Office of Field Operations of the INS here in Washington; and Richard Rohde, Deputy Assistant Director of the Office of Investigations of the U.S. Secret Service here in Washington.

The third panel consists of Benjamin Jacobson of the Peregrine Group in Miami; Omar Ashmawy in Washington, DC; and Steven Emerson, the Investigative Project here in Washington, DC.

On February 26, 1993, almost exactly 5 years ago, the World Trade Center in New York was bombed. Thousands were injured, six people lost their lives, and Americans discovered that they were not immune to imported acts of terror. Five years and four prosecutions later, as today's hearing will show, there is much we have learned—and some things we still don't know—about that horrible act and about terrorist operations here in America.

Among the things we have learned is that the perpetrators of the World Trade Center bombing were from varied ethnic backgrounds and apparently unaligned with any one terrorist group. Yet their joint conspiracy was forged by a shared radical ideology and hatred for the United States. And the language of hate continues to be used for recruitment today.

We also learned that the death toll in New York could have been much higher. Ramzi Yousef, the central figure behind the bombing, said he had meant to collapse one of the World Trade Center's towers on top of the other, hoping to kill 250,000 people inside and in the immediate area, but the explosion did not go according to plan.

Another of the co-conspirators was an American-educated chemical engineer, employed at a respected U.S. corporation. Investigators found the ingredients for hydrogen cyanide—which, incidentally, was used in the Nazi death camps—among the conspirator's stockpile, corroborating Yousef's version of the aborted plan to use poison gas.

As the DCI George Tenet recently testified to Congress, terrorists' interests in weapons of mass destruction is on the rise. This subcommittee will be looking at the prospects for chemical and biological terrorism—and our preparedness to deal with it—later this spring.

The World Trade Center conspirators and their affiliates also laid plans to commit other deadly attacks, both before and after the World Trade Center bombing, which were not carried out for reasons ranging from luck, to timing, to aggressive counterterrorist efforts by U.S. authorities. And in the course of their conspiracy, they violated immigration laws, used false identifications, committed financial crimes, recruited sympathizers, acquired weapons, and, at least in the World Trade Center case, obtained potentially lethal chemicals under false pretenses.

The purpose of our hearing today is to look back on this terrible act of 5 years ago and ask, what have we learned in its wake? Are terrorists still operating here? And if so, why? What are they doing and what are we doing to stop it? And, of course, do these activities pose a threat to the public safety of our citizens?

The World Trade Center bombing and related cases provide insights into how a terrorist operation in the United States is facilitated and how our free and open society can provide safe haven for terrorist conspirators. Since 1993, terrorist group support networks have proliferated, reaching not only into major U.S. cities but smaller towns and communities as well. Criminal enterprises fund their activities here and abroad. These enterprises defraud Americans of millions of dollars, which go to support terrorist operations and into the terrorists' own pockets.

This committee has already heard how foreign terrorist groups use front organizations to raise money here in the United States. In April 1996, Congress passed, with wide bipartisan support, the Anti-Terrorism and Effective Death Penalty Act. Among other things, the act directed the Secretary of State to designate foreign terrorist groups for the primary purpose of seizing their assets and outlawing new contributions or payments to them. But when the list was finally published last fall, no assets were recaptured. The IRA, which is especially active in fundraising in the United States,

was omitted from the list for political purposes. And only recently have regulations been put into place to go after contributors. Clearly, we need to seek better means to help thwart fundraising and other foreign terrorist activities.

Foreign terrorists gain unlawful entry into the United States by using false and stolen documents and by employing sophisticated alien smuggling rings. U.S. academic institutions are also at risk of being used as a cover for terrorists, who use student campuses to solicit money, recruit members, and espouse violent ideologies.

In this hearing, today, we will learn what law enforcement is doing about these activities, including the Student Tracking Pilot Program that was to go into effect in January. We will also hear firsthand testimony about how radical Muslims are distorting the teachings of Islam and attempting to drive a wedge between the vast majority of Muslims of good will and the people and Government of the United States.

Finally, our witnesses will confirm that there is a small but dangerous radical element pursuing their terrorist agenda here who pose a direct threat to Americans. And their activities seem to be growing. Some of these terrorists are affiliated with the same groups and state sponsors of terrorism that were involved in the World Trade Center conspiracy. Still others have their own agenda, quite distinct from the World Trade Center conspiracy.

The U.S. intelligence community and our law enforcement agencies have had many quiet victories in defeating terrorist actions here, which will never receive public recognition. And this subcommittee remains committed to supporting these efforts, to keep our citizens safe both at home and abroad.

I hope this hearing will provide some insights into the policies and tools that we need to deny terrorist fundraising and operations here in America.

Senator Feinstein.

STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman, and thank you very much for holding this hearing. Of course, you touched on the World Trade Center bombing, and I think we saw people from other nations involved there. And then, of course, we saw people from our own Nation involved in Oklahoma City, and those of us that have had the classified briefings understand that we have some reason to be concerned about the numbers of people in this country who are known or believed to be terrorists.

As you pointed out, in the 1994 crime bill we made a series of changes to strengthen our legal ability to confront terrorists. We extended the statute of limitations for terrorism offenses. We attacked foreign counterfeiting of U.S. currency, extended U.S. criminal jurisdiction to attacks against American citizens on foreign vessels, and so on. And then in the antiterrorism bill, there were a number of other provisions added: the addition of taggants to explosives, where it is safe and feasible, to aid law enforcement in solving bombing incidents, strengthening controls of and enforcement against biological agents or pathogens, and so on.

There are also a number of glaring loopholes in our immigration laws. As I serve on the Immigration Subcommittee, I just wanted to spend my time touching on some of them.

I have some reservation regarding the practice of issuing visas to terrorist-supporting countries and INS' inability to track those who come into the country either using a student visa or using fraudulent documents, as you pointed out, through the Visa Waiver Pilot Program.

The Richmond Times recently reported that the mastermind of Saddam Hussein's germ warfare arsenal, Rihab Taha, studied in England on a student visa. And England is one of the participating countries in the Visa Waiver Pilot Program, which means, if she could have gotten a fraudulent passport, she could have come and gone without a visa in the United States.

The article also says that Rihab Taha, also known as "Dr. Germ," that her professors at the University of East Anglia in Norwich, England, speculate that she may have been sent to the West specifically to gain knowledge on biological weaponry.

What is even more disturbing is that this is happening in our own backyard.

The Washington Post reported on October 31, 1991, that U.N. weapons inspectors in Iraq discovered documents detailing an Iraqi Government strategy to send students to the United States and other countries to specifically study nuclear-related subjects to develop their own program. Samir Al-Araji was one of the students who received his doctorate in nuclear engineering from Michigan State University, and then returned to Iraq to head its nuclear weapons program.

The Washington Institute for Near Eastern Policy found in September 1997 that many terrorist-supporting states are sending their students to the United States to get training in chemistry, physics, and engineering which could potentially contribute to their home country's missile and nuclear, biological, and chemical weapons programs.

Yet the State Department often does not do in-depth background checks on the students, and once they are in the United States, the INS has no ability to track the students to make certain they actually study the subjects they claim to study and to attend the schools they said they would attend.

Between 1991 and 1996, the State Department has issued about 9,700 student visas to students from terrorist-supporting states such as Iran, Iraq, Libya, Sudan, and Syria to attend undergraduate and graduate studies in the United States.

Additionally, a survey done by the Institute of International Education indicates that most students from terrorist-supporting countries major in the sciences, and the percentages: 71 percent from Iran; 65 percent, Iraq; 47 percent, Libya; 53 percent, Sudan; 68 percent, Syria.

The IEE survey also estimates that 4.6 percent of students from Iran and 10.5 percent of students from Iraq are funded by their government to study in the United States.

Currently, the State Department does not do any special background checks for students coming from Syria or Sudan. An inter-

mediate background check is required for Iranian students and a more extensive check for Iraqi students.

The defendants of the World Trade Center bombing are also an example of those coming in through nonimmigrant or employment-based visas or abusing our political asylum process and then committing crimes.

For instance, Nidal Ayyad, one of the defendants in this case, used his position as a chemical engineer for Allied Signal to obtain the chemicals used in the World Trade Center bombing.

There is Gazi Abu Mezer, who was arrested in a suspected terrorist plot to detonate bombs in Brooklyn last year. He came in illegally across the Canadian border to Washington State and attempted to seek asylum, but withdrew his application and agreed to leave the country. Once he was released on voluntary departure, he fled Washington to Brooklyn, NY, where he was arrested for plotting suicide-bomb attacks in Brooklyn.

After the World Trade Center bombing, Louis Freeh sent a memo to the Deputy Attorney General on September 26, 1994, and made the recommendation that the State Department needed to establish a uniform system of communication on visa denials and that the Visa Waiver Pilot Program could be used by terrorists using fraudulent documents and that asylum procedures and student visas can be abused by people trying to get into the country.

Mr. Chairman, I would like to submit the memo into the record.

Senator KYL. It will be submitted.

Senator FEINSTEIN. The INS then formed a Task Force on Foreign Student Controls in 1995, in response to Freeh's memo, and found that INS had no ability to track the students in the United States, that INS had no idea if the students leave, drop out, transfer, interrupt their education, violate their status, or commit crimes.

Mr. Chairman, under the 1996 Immigration Act, Congress requires the INS to create a pilot project to track information on foreign students—where they are, what they are studying, if they commit any crimes, and if they are studying the subjects they planned to study. The act requires INS to submit a report by 2001. The act also tightens up the asylum process by making it harder for aliens to claim asylum fraudulently, and section 110 of the Immigration Act requires an entry/exit system at all ports of entry by September 1998.

As you know, there is a move on this very committee to essentially remove that.

I know there are concerns over the implementation of international student tracking systems and the entry/exit system required by the 1996 law. And I realize it takes time to build the automation systems and the infrastructure necessary to make the requirements work. However, I cannot stress enough the importance of having the ability to track international students, particularly those from terrorist-supporting countries and having an entry/exit system ability so we know who is coming in and out of the country.

I also believe we need to re-evaluate the Visa Waiver Pilot Program as is. In fact, without additional controls to screen out those traveling from terrorist-supporting states, the Visa Waiver Pilot

Program would make us vulnerable to allowing aliens from terrorist countries to enter without any detection.

Let me just spend a moment on encryption.

In addition to efforts to eliminate the required implementation of entry/exit systems, we are facing other efforts to eliminate or curtail existing protections against terrorism. The ongoing encryption debate is one such example. Last month, the FBI Director testified before the Senate Select Committee on Intelligence that, "[T]he encryption issue is one of the most important issues confronting law enforcement and potentially has catastrophic implications for our ability to combat every threat to national security * * * Law enforcement remains in unanimous agreement that the widespread use of robust non-recovery encryption ultimately will devastate our ability to fight crime and terrorism."

Director Freeh outlined specific examples of terrorist attempts to use encryption to attempt to thwart national security enforcement, including encrypted files found on the laptop computer of international terrorist Ramzi Yousef that detailed the plot to blow up 11 United States-owned commercial airlines in the Far East. These are deadly serious concerns, and they dictate a serious response.

At the same time, advocates of a more flexible encryption policy stress that sales and jobs will be lost to foreign manufacturers who operate in nations with more lax export policies. These, too, are serious concerns. Economic growth and technology development are critical issues to my home State of California, which leads the world in developing high-tech products.

FBI Director Freeh called for "a balanced public policy on encryption." The critical word is "balance." I support a balanced policy which addresses both serious national security and crime enforcement concerns, while simultaneously setting into account and addressing the legitimate concerns of the high-tech industry.

I hope that this Congress will have the courage to deal forthrightly with the legitimate concerns on both sides of the encryption question and draft legislation that neither endangers national security or the war against organized crime, nor retards U.S. competitiveness in this critical field in which we have, until now, led.

And, interestingly enough, when I was home over the break, I talked with some of the people in the Silicon Valley area, and we discussed together the whole key recovery area, and they are working very hard to come up with some alternatives that would provide the guarantees that we both have discussed and yet move away from the specific mandatory key recovery issue. And I believe they are making progress, and I was heartened to hear that one of the companies wanted to bring a proposal before the Attorney General as well.

So I very much look forward to today's witnesses, Mr. Chairman. I am sorry to have taken so long, but I think it is very important that we all work together to strengthen and defend our protections against terrorism.

[The prepared statement of Senator Feinstein follows:]

PREPARED STATEMENT OF SENATOR DIANNE FEINSTEIN

Five years ago, all Americans were shocked when a terrorist bomb exploded at the World Trade Center in New York City, leaving five people dead, more than one

thousand wounded, and a cavernous crater 200 feet by 100 feet wide, and seven stories deep. When a group of radical fundamentalists were arrested for this barbaric act, American concerns about foreign terrorist activity on our soil were brought home.

Little did we know then that just over two years later, an even more horrific terrorist attack would occur, this time prepared by home-grown domestic terrorists—the bombing of the Murrah building in Oklahoma City.

As one would expect, Congress responded to these events: In the 1994 Crime Bill, we made a series of changes to strengthen our legal ability to confront terrorists, including: extending the statute of limitations for terrorism offenses; attacking foreign counterfeiting of U.S. currency; extending U.S. criminal jurisdiction to attacks against American citizens on foreign vessels; increasing sentences for crimes of international terrorism; and, prohibiting the provision of material support to terrorists.

Of course, last Congress we enacted the Anti-Terrorism and Effective Death Penalty Act of 1996, comprehensive legislation encompassing a plethora of anti-terrorism initiatives. I was proud to be the author or lead Democratic sponsor of a number of parts of this legislation, including: Provisions requiring the addition of taggants to explosives, where it is safe and feasible, to aid law enforcement in solving bombing incidents; strengthening controls of an enforcement against biological agents, or pathogens; an Attorney-General study of the need for and constitutionality of prohibiting the dissemination of bombmaking information for a criminal purpose—which has since come back with flying colors; and provisions for restitution to the community in drug cases—a measure which I had the pleasure of working on and co-sponsoring with you, Mr. Chairman.

The terrorism bill also contained a number of reforms which were specifically prompted by the World Trade Center case, including: Facilitating the removal of alien terrorists; expanding the government's ability to exclude from the United States aliens who are involved in terrorist activities; denial of asylum to alien terrorists; and streamlining the deportation of criminal aliens.

However, I was disappointed that a number of provisions which law enforcement had requested to help them combat terrorists more effectively were dropped from the bill, including: Law enforcement authority to implement multi-point wiretapping; giving the Attorney General emergency wiretap authority; making certain terrorism offenses RICO predicates; giving law enforcement wiretap authority for additional terrorism offenses, such as explosives violations and wrecking trains; and my own provision to implement a prohibition on the dissemination of bombmaking instructions for a criminal purpose.

IMMIGRATION PROVISIONS

I am also concerned that we need to strengthen further our immigration laws and procedures to counter foreign terrorist operations. I have grave reservations regarding the practice of issuing visas to terrorist supporting countries and INS' inability to track those who come into the country either using a student visa or using fraudulent documents through the Visa Waiver Pilot Program Countries.

The Richmond Times recently reported that the mastermind of Saddam Hussein's germ warfare arsenal, Rihab Taha, studied in England on a student visa. And England is one of the participating countries in the VWPP which means, if she could have gotten a fraudulent passport, she could have come and gone without a visa in the United States.

The article also says that Rihab Taha, also known as "Dr. Germ", that her professors at the University of East Anglia in Norwich, England "speculate that Taha may have been sent to the West specifically to gain knowledge on biological weaponry."

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Washington Institute for Near Eastern Policy found in September 1997 that many of terrorist supporting states are sending their students to the United States to get training in chemistry, physics and engineering which could potentially contribute to their home countries' missile and nuclear, biological and chemical weapons programs.

Yet, the State Department often does not do in-depth background checks on the students and once they are in the U.S., the INS has no ability to track the students

to make certain they actually study the subjects they claim to study and to attend the schools they say they would.

Between 1991-1996, the State Department has issued 9,767 students visas to students from terrorist supporting states such as Iran (4,789), Iraq (467), Libya (104), Sudan (1,404), Syria (3,003) to attend undergraduate and graduate studies in the United States.

Additionally, a survey done by Institute of International Education (IEE) indicates that most students from terrorist supporting countries major in the sciences: 71.9 percent of students from Iran; 65 percent of students from Iraq; 47.5 percent of students from Libya; 53.9 percent of students from Sudan and 68.5 percent of students from Syria.

The IEE survey also estimates that 4.6 percent of students from Iran and 10.5% of students from Iraq are funded by their government to study in the U.S.

Currently State Department does not do any special background checks for students coming from Syria or Sudan. An intermediate background check is required for Iranian students and a more extensive checks are required for Iraqi students.

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For instance, Nidal Ayyad, one of the defendants in the World Trade Center bombing used his position as a chemical engineer for Allied Signal to obtain the chemicals used in the World Trade Center bombing.

And there is Ghazi Abu Maizar, who was arrested in a suspected terrorist plot to detonate bombs in Brooklyn last year. Maizar came in illegally across the Canadian border to Washington State and attempted to seek asylum but withdrew his application and agreed to leave the country. Once he was released on voluntary departure, Maizar fled Washington state to Brooklyn, New York where he was arrested for plotting suicide-bomb attacks in Brooklyn.

After the World Trade Center bombing, Louis Freeh sent a memo to the Deputy Attorney General in 9/26/94, and made the recommendation that the State Department needed to establish uniform system of communication on visa denials, that VWPP could be used by terrorists using fraudulent documents and that asylum procedures and student visas can be abused by people trying to get into the country.

Mr. Chairman, I would like to submit the memo into the record.

INS formed a Task Force on Foreign Student controls in 1995, in response to Freeh's memo and found that INS had no ability to track the students in the U.S., that INS has no idea if the students leave, drop out, transfer, interrupt their education, violate their status or commit crimes.

Mr. Chairman, under the 1996 Immigration Act, Congress requires the INS to create a pilot project to track information on foreign students—where they are, what they are studying, if they commit any crimes and if they are studying the subjects they planned to study. The Act requires INS to submit a report by 2001. The Act also tightens up the asylum process by making it harder for aliens to claim asylum fraudulently and Section 110 of the Immigration Act requires an entry-exit system at all ports of entry by September of 1998.

I know there are concerns over the implementation of international student tracking systems and the entry-exit system required by the 1996 law. And I realize it takes time to build the automation system and the infrastructure necessary to make the requirements work. However, I cannot stress enough the importance of having the ability to track international students, particularly those from terrorist supporting countries and having an entry-exit system ability so we know who is coming in and out of the country. I also think we need to reevaluate the Visa Waiver Pilot Program as is. In fact, without additional controls to screen out those traveling from the terrorist supporting states, VWPP would make us vulnerable to allowing aliens from terrorist countries to enter without any detection.

ENCRYPTION

In addition to efforts to eliminate the required implementation of entry/exit systems, we are facing other efforts to eliminate or curtail existing protections against terrorism. The ongoing encryption debate is one such example.

Last month, FBI Director Freeh testified before the Senate Select Committee on Intelligence that:

"[T]he encryption issue is one of the most important issues confronting law enforcement and potentially has catastrophic implications for our ability to combat every threat to national security. * * * Law enforcement remains in unanimous agreement that the widespread use of robust non-re-

covery encryption ultimately will devastate our ability to fight crime and terrorism.

Director Freeh outlined specific examples of terrorist attempts to use encryption to attempt to thwart national security enforcement, including encrypted files found on the laptop computer of international terrorist Ramzi Yousef that detailed the plot to blow up 11 U.S.-owned commercial airliners in the Far East. These are deadly serious concerns that dictate a serious response.

At the same time, advocates of a more flexible encryption export policy stress that sales and jobs will be lost to foreign manufacturers who operate in nations with more lax export policies. These too, are serious concerns. Economic growth and technology development are critical issues to my home state of California, which leads the world in developing high technology products.

FBI Director Freeh called for "a balanced public policy on encryption." The critical word is "balance." I support a balanced policy, which addresses both serious national security and crime enforcement concerns, while simultaneously taking into account and addressing the legitimate concerns of the high technology industry.

I hope that this Congress will have the courage to deal forthrightly with the legitimate concerns on both sides of the encryption question, and draft legislation that neither endangers national security or the war against organized crime, nor retards U.S. competitiveness in this critical field in which we have, until now, led.

I am encouraged by recent reports that high technology companies have been cooperating with the Department of Justice to attempt to develop workable products that address all of these concerns. I heartily encourage such cooperation and pledge to provide whatever support I can to foster dialogue and cooperation between industry, law enforcement, and national security agencies to attempt to address this critical issue in a manner that recognizes the serious concerns on all sides of the issue.

So I look forward to hearing the testimony of today's witnesses, Mr. Chairman, as we work to strengthen and defend protections against terrorism.

Senator KYL. Thank you, Senator Feinstein.

I think it should be evident to all that the leadership on this subcommittee is bipartisan in the best of that tradition, and Senator Feinstein's leadership on these issues of student tracking, the exit/entry system, the Visa Waiver Pilot Program, and the last issue she mentioned, the issue relating to law enforcement's need to have access to encrypted materials, is second to none in the United States Senate. It is significantly through her efforts that this subcommittee is able to pursue the matters that it does with the success that I think we have.

Thank you, Senator Feinstein.

We begin this morning's hearing with a retrospective on the World Trade Center bombing and the four prosecutions related to that event:

The prosecution of four of the individuals most intimately involved with carrying out the actual bombing of the World Trade Center. Missing from this prosecution was Ramzi Yousef and another defendant who is still at large and believed to be in Iraq;

Second, the prosecution of Sheik Rahman and others for conspiracy to commit assassinations and bombings of key transportation and business sites;

Third, the prosecution of Ramzi Yousef for his role in the World Trade Center bombing;

And, fourth, the prosecution of Ramzi Yousef for the attempted bombing of 12 U.S. aircraft in Manila.

The facts of these cases have never been received by Congress before in a comprehensive format, but together they constitute the most extensive investigations and prosecutions ever concluded of foreign terrorist operations in the United States.

We are very privileged to have as our lead witnesses three of the individuals most responsible for these successful prosecutions. Our

first witnesses are Gil Childers and Henry DePippo, who prosecuted the World Trade Center terrorists. Also testifying on this panel is Patrick Colgan, formerly with the FBI, whose supervision of the investigation into Sheik Rahman's involvement in a variety of murder and bombing plots, including the World Trade Center, resulted in a life sentence for the sheik and the successful convictions of his 11 codefendants.

This will be the first time this panel of witnesses has appeared jointly in public to discuss the facts surrounding the World Trade Center prosecutions. Let me say that this country is indebted to our first panel and those who worked with them for their professionalism and for their thorough and effective efforts to bring these terrorists to justice.

As the Director of the Central Intelligence Agency recently testified before another Senate committee, one reason why we have not seen more terrorist attacks against Americans is that the world knows well our ability and determination to locate and bring terrorists to justice. And so on behalf of the American people and this committee, I thank each of you for the service that you provided to your country and your willingness to testify here today.

[World Trade Center Timeline follows:]

WORK PRODUCT (Majority)

Judiciary Subcommittee on Technology, Terrorism and Government Information



March 4, 1994:
WTC bombing trial ends.
Defendants convicted on all counts.



January - August 1995:
Sheik case goes to trial.



January 6, 1995:
Yousef's Manila apartment catches fire, forcing him to abort airliner conspiracy.



January 17, 1996:
Sheik conspiracy sentencing. Sheik Rahman receives life, others sentenced to serve between 25-57 years.



August - November 1997:
Yousef WTC trial.



January 1998:
"Indictment in Manila case unsealed against Yousef's Uncle, a fugitive believed to be in Iraq." Appeals argued in Sheik conspiracy case.



September 1, 1992:
Yousef and Alajenter United States at JFK. Alaj is detained along with bomb manuals. Yousef seeks political asylum and is released.



June 23, 1993:
Agents raid safehouse where conspirators are mixing bomb components for planned attack on Holland/ Lincoln Tunnels and UN/FBI buildings in New York City in near future. Indictment filed against Sheik and 11 others.



August 1994:
Manila Airlines conspiracy begins. Plan is to blow up 12 airliners on route between United States and Asia in close time frame.



March 1995:
Yousef indicted in Manila case.



May 1996:
Manila case goes to trial.

September 1996:
Manila case convictions.



December 1997:
Appeals argued in WTC case.

Still Unresolved:

*Yasin (defendant in first WTC case) is a fugitive believed to be in Iraq.

*Appeals yet to be filed in Yousef cases.

*Manila airliner investigation continuing

LEGEND



WTC Case



Yousef WTC Case



Sheik Conspiracy Case



Manila Case

1992

1993

1994

1995

1996

1997

1998

Senator KYL. Let's begin with Mr. Childers and Mr. DePippo. Welcome.

PANEL CONSISTING OF J. GILMORE CHILDERS, ORRICK, HERRINGTON & SUTCLIFFE, LLP, NEW YORK CITY, NY, AND HENRY J. DePIPPA, NIXON, HARGRAVE, DEVANS & DOYLE, ROCHESTER, NY; AND PATRICK J. COLGAN, JR., PBL ASSOCIATES, WYCKOFF, NJ

STATEMENT OF J. GILMORE CHILDERS

Mr. Childers. Thank you, Senator.

As you know, Mr. DePippo and I are here to discuss the trial of the terrorists who bombed the World Trade Center. The trial of four of the conspirators began approximately 6 months after the bombing itself. After the conclusion of the 6-month jury trial, each of those defendants was found guilty on all counts on which he was charged. Last fall, Ramzi Yousef, who was a fugitive during the first trial, was also tried and convicted for the World Trade Center bombing. Each defendant, including Mr. Yousef, has now been sentenced to a total of 240 years' imprisonment for their participation in the World Trade Center bombing.

The defendants' respective roles in the terrorist plot—and their participation in the World Trade Center bombing—were reconstructed during the course of the trial using over 1,000 exhibits and the testimony of more than 200 witnesses. In the end, the evidence overwhelmingly established that Ramzi Yousef, Mohammed Salameh, Nidal Ayyad, Mahmud Abouhalima, Ahmad Ajaj, and Abdul Rahman Yasin conspired to bomb targets in the United States and that, as part of their terrorist scheme, they participated in the February 26, 1993, bombing of the World Trade Center.

Ahmad Ajaj first entered the United States on September 9, 1991. He settled in Houston, TX, and filed a petition for political asylum, claiming that the Israeli government had imprisoned and tortured him in retaliation for his peaceful opposition to the Israeli occupation of Palestine.

Ajaj never appeared for an INS hearing on his asylum claim, however. Instead, Ajaj relinquished his Houston apartment and, in April 1992, hastily left the country under an assumed name to attend a terrorist training camp on the border of Afghanistan and Pakistan.

After arriving in Pakistan, Ajaj traveled to Dubai and then to Saudi Arabia. In Saudi Arabia, Ajaj obtained a letter of introduction to "Camp Khaldan," a terrorist training camp located in Afghanistan just across the border from Peshawar, Pakistan. The letter of introduction stated that the bearer, Ajaj, had come to the "land of jihad" for training and asked the leader of the camp to provide Ajaj with training in weapons and explosives.

Also while in Pakistan, Ajaj made contact with Ramzi Yousef. Together, Ajaj and Yousef plotted to apply their collective explosives training and experience to bomb targets in the United States. With this objective, Ajaj and Yousef studied the voluminous materials they amassed, including a series of printed bomb-making manuals with blue covers. These blue books, as they came to be known during the trial, like Ajaj's handwritten notes, contained

formulae for various explosives, including the ones that were later used by the conspirators to make the World Trade Center bomb.

Specifically, in assimilating their knowledge of explosives for use in the United States, Yousef and Ajaj appear to have focused on those portions of Ajaj's terrorist materials that explain how to make a bomb using the explosive compound urea nitrate as the primary explosive—the same compound that they, in fact, later used as the main charge for the World Trade Center bombing.

Formula and instructions for making a number of other explosive also later used as boosters and detonators in the World Trade Center bomb—such as nitroglycerin and ammonium nitrate dynamite and lead azide—were also contained in Ajaj's blue books.

The materials Ajaj gathered during his terrorist course of study also included instructions on making and using false identification. Following those instructions, Ajaj and Yousef, while overseas in 1992, collected materials such as photographs, identification cards, bank records, education records, and medical records to create the false identities they would later use to travel to the United States to carry out their terrorist plot. Additionally, these materials recommended that a ground-floor location be selected as the base of operation for an urban terrorist organization in order to facilitate escape if it were to become necessary.

Ajaj's terrorist studies abroad also encompassed instructional videotapes. The videos not only demonstrated how to make explosives, but also advocated a specific bombing target: the United States. For example, the opening scene in one of the videos, obviously intended to be inspirational, shows a van crashing into the front of a United States embassy. Once inside the embassy, the suicidal driver of the van detonates a bomb, which destroys the embassy. Following that introduction, the video demonstrates how to make a number of explosives.

In a few minutes, Senators, we will play portions of two of these videotapes that were captured from Mr. Ajaj.

Having assimilated his explosive training and gathered his kit of terrorist materials, Ajaj, in the company of Yousef, made plans illegally to enter the United States and to bring with them this terrorist kit.

On August 31, 1992, Ajaj and Yousef boarded a flight from Peshawar to Karachi in Pakistan. On that flight, which constituted the first leg of their journey to New York, Ajaj and Yousef occupied adjacent seats in the first class section of the airplane. When they changed planes in Karachi for the second leg of their trip to New York, however, Ajaj and Yousef split up in order to disguise the fact that they were, in fact, traveling together. They checked in separately and sat apart from each other in the first class section of the flight.

Yousef, who was dressed in a loud, multicolored, three-piece silk outfit, left Pakistan using a British passport under an assumed name. Ajaj, who was dressed in a Western-style conservative suit and tie, carried a valid Swedish passport. I say "valid" guardedly because that passport had been altered by affixing Ajaj's picture on top of the original photograph of the bearer of that passport.

Evidently expecting to pass unchallenged through the INS inspection area at New York's Kennedy Airport—since an individual

bearing a valid Swedish passport does not even need a visa to enter the United States—it was Ajaj who carried the kit of terrorist materials.

Specifically, Ajaj carried, among other things: two notebooks with handwritten notes on explosives; the six printed bomb-making manuals that we referred to as the blue books; four instructional videotapes on making explosives; anti-American and anti-Israeli materials; and documents relating to false identities.

Once Ajaj and Yousef arrived at the INS inspection area at Kennedy Airport on September 1, 1992, however, things did not go quite as they had planned. The first INS inspector that Ajaj encountered determined that Ajaj's Swedish passport was suspicious and directed him to the secondary inspection area. The inspector examined the passport and, upon discovering that it had been altered, opened Ajaj's luggage and found the terrorist kit. Ajaj was detained as a danger to the United States and was later charged with passport fraud. Ultimately, Ajaj would enter a plea of guilty to that charge and was sentenced—and, in fact, served—6 months' imprisonment.

Meanwhile, at Kennedy Airport on September 1, 1992, Yousef—who did not have a visa—was sent directly to the secondary inspection area. Yousef had abandoned his British identity upon reaching the United States—I should say his assumed British identity—opting instead to use an Iraqi passport and claim political asylum. When Yousef was interviewed at the secondary inspection area, he was arrested for entering the country without a visa.

Yousef asserted, in a sworn statement to INS officials, that he had succeeded in boarding the flight to New York by bribing an official in Pakistan. Additionally, rather than divulge the fact that he was traveling with Ajaj, who was carrying the terrorist kit they had compiled, Yousef claimed to be traveling alone. Ajaj also claimed to be traveling alone. Ajaj's lie, together with the fact that the terrorist materials were carried by Ajaj rather than by Yousef, resulted in Yousef being released on his own recognizance. Thus, although Ajaj was detained and the terrorist material seized, Yousef succeeded in entering the country to later carry out the bombing plot.

Upon entering the United States, Yousef quickly began to work with other trusted coconspirators on the bomb plot. Within days of his arrival, Yousef had made contact with some of his codefendants, including Mohammed Salameh and Abdul Rahman Yasin, both of whom lived in Jersey City, NJ. Yousef began living with Salameh shortly thereafter and became known to his coconspirators by the alias Rashed.

Ajaj was incarcerated from that point in time he was detained in the airport on September 2. Nevertheless, Ajaj remained in contact with Yousef and other coconspirators and continued to be involved in the bomb plot during this period. During his time in Federal custody, Ajaj never contacted Yousef directly. Rather, Ajaj used a friend in Dallas as an intermediary. Specifically, Ajaj would call Dallas from prison, and his friend would then either relay messages to Yousef or on numerous occasions actually patch three-way calls through to Yousef, thereby rendering law enforcement efforts to detect contact between Ajaj and Yousef far more difficult.

During one of those calls, and speaking, as they always did, in guarded and sometimes coded language, Ajaj told his friend to stay in touch with Yousef and also stated that Yousef may need to obtain the terrorist kit that was seized from Ajaj at the airport.

Meanwhile, the other coconspirators proceeded with the plot. In mid-October 1992, Salameh opened a joint bank account with another codefendant, Nidal Ayyad, who worked as a chemical engineer for Allied Signal Corp. Together, they deposited approximately \$8,500 into this joint account which would later be used to fund the bombing plot. Approximately 1 week later, Salameh and Ayyad withdrew the money from their joint account and transferred the cash to an individual bank account opened by Salameh that very same day.

By mid-November, Salameh and Yousef began to call a series of chemical companies to obtain what Ajaj's blue books described as the raw materials for urea nitrate, those materials being commercially manufactured urea, which is often used as a fertilizer—and, oddly enough, at the World Trade Center as an ice melter—and nitric acid. After they succeeded in obtaining urea and nitric acid for the main charge of the World Trade Center bomb, the conspirators began to build boosters and detonators for that bomb, again following the formulae described in Ajaj's blue books and handwritten materials.

Yousef went to the City Chemical Corp. in Jersey City, NJ, where he purchased 1,000 pounds of technical grade urea and 105 gallons of nitric acid to make urea nitrate for the bomb's main charge. Yousef also purchased 60 gallons of sulfuric acid to make nitroglycerin to act as a booster. He also purchased an amount of ethyl alcohol which is used to stabilize nitroglycerin so that it could later be transported safely. He also purchased a 25-pound bag of sodium carbonate to neutralize acids that were used during the mixing processes.

In mid-December, Mahmud Abouhalima, another codefendant, who was in daily contact with Salameh and Yousef, purchased smokeless powder to make detonators for the World Trade Center bomb.

As the conspirators began to assemble the chemicals necessary to carry out the plot, Salameh rented a storage shed at the Space Station Storage Co., again, in Jersey City, NJ. All of the bomb-making materials were delivered to the conspirators at that shed.

By the end of January 1993, Yousef had placed two more orders with City Chemical for delivery to the shed. The purchases included: additional quantities of urea and nitric acid to make more urea nitrate for the bomb; more methyl alcohol for stabilizing nitroglycerin; and nearly 200 pounds of various metal powders, including aluminum, magnesium, and ferric oxide, to be added to the urea nitrate main charge to enhance that part of the bomb's destructive impact. Again, this scenario, use of the oxidization metals, was contemplated and described in Ajaj's terrorist manuals.

In all, the conspirators ordered and had delivered to the shed a total of 1,500 pounds of urea and approximately 1,700 pounds of nitric acid, most of which was used to make the World Trade Center bomb. The remaining portions were recovered at that shed during searches during the investigation following the bombing.

In December 1992, when the conspirators were acquiring urea, nitric acid, and the other chemicals for the bomb's main charge, as well as boosters and detonators, Yousef began to reach out for Ajaj. Beginning on December 4, 1992, a few days after Yousef ordered to the first shipment from City Chemical, Yousef placed a series of calls to Ajaj's lawyer in New York and to Ajaj's friend in Texas. On December 29, 1992, after Salameh and Yousef had spent 2 days calling myriad chemical companies looking for chemicals to make boosters, Yousef again reached out for Ajaj, demonstrating how involved Ajaj continued to be in the bombing plot, even though he was incarcerated.

Later that same day, a call from Ajaj was transferred to Yousef, permitting the two to speaking directly. In the conversation, Ajaj immediately brought up the terrorist kit, informing Yousef that the court had ordered the Government to return Ajaj's belongings. When Yousef asked if he could take possession of Ajaj's things, Ajaj readily agreed at first. He then said it was not a good idea for Yousef personally to obtain the materials from the Government because it might jeopardize Yousef's "business," which Ajaj said would be "a pity." As Ajaj well knew, Yousef's only "business" in the United States was to pursue the bomb plot the two conspirators had hatched together overseas earlier that year. Ajaj then suggested that Yousef send someone else to pick up the materials.

At this time, Mr. DePippo will pick up the rest of the story.

STATEMENT OF HENRY J. DePIPPPO

Mr. DEPIPPPO. Mindful of the warning in Ajaj's materials that in order to facilitate escape, terrorist operations should be conducted out of ground-floor apartments, Abouhalima helped Salameh and Yousef find a ground-floor apartment in late December 1992 at 40 Pamrapo Avenue in Jersey City. After Salameh and Yousef moved into the apartment, the conspirators used that apartment in January and February 1993 to mix the chemicals they had obtained from the City Chemical Corp. and stored at the shed to create the explosives for the World Trade Center bomb. Those explosives included urea nitrate, nitroglycerin, ammonium nitrate dynamite, lead azide, and others. They mixed these chemical concoctions in a manner consistent with the formulae and other specifications in Ajaj's blue books. The conspirators also prepared explosive mixtures containing smokeless powder at 40 Pamrapo. Once the explosives were mixed, the conspirators transported them to the shed and stored them until they would need them.

While the conspirators mixed the explosive at 40 Pamrapo, they also attempted to calculate the size and type of bomb they would need in order to achieve the desired destructive impact on the World Trade Center. For these calculations, Abouhalima, who frequently joined as coconspirators at 40 Pamrapo, studied a book identical to one that had been seized for Ajaj entitled "Rapid Destruction and Demolition." The book contained a formula for the destruction of buildings.

In the course of the mixing process that took that 2-month period over January and February 1993, the conspirators spilled chemicals on the floors and on the walls at 40 Pamrapo. They spilled chemicals on their clothing, as well as other items, thereby leaving

telltale traces of their illegal activities. In the back bedroom of 40 Pamrapo, the conspirators mixed large quantities of urea nitrate for the main charge of the World Trade Center bomb, using the urea and nitric acid in a roughly one-to-one ratio as prescribed in Ajaj's blue books.

When mixing the urea nitrate, the conspirators first dissolved the urea in water and then added the nitric acid. The process created harsh chemical fumes, which required the conspirators to use surgical masks in order to protect themselves during the mixing process, and caused some of the paint on the walls to change from white to blue, and corroded the inside of the back bedroom's door-knob and door hinges.

To enhance the urea nitrate mixture and to increase the World Trade Center bomb's destructive impact, the conspirators also added metal powders, including aluminum, again, as recommended in the Ajaj manuals. During the mixing process, and as these metals were added, the urea nitrate overheated and bubbled, splattering the walls and hitting the ceiling of the back bedroom, again, leaving signs that would later be uncovered by investigators and used as evidence during the course of the trial.

Another explosive mixed at 40 Pamrapo was nitroglycerin, which the conspirators used to make boosters for the World Trade Center bomb. Again, as recommended by Ajaj's manuals, the conspirators used alcohols to stabilize the nitroglycerin for transport and carbonates to neutralize acids as they mixed. Some of the nitroglycerin was used by the conspirators to make sticks of homemade dynamite, which were wrapped in duct tape and added to the bomb as boosters. Again, during that mixing process, the conspirators spilled nitroglycerin in the apartment and on their clothing, leaving, again, revealing traces of the explosive.

The target of the bomb plot, of course, was the World Trade Center complex, a 16-acre site located in lower Manhattan. Although mostly known for the Twin Towers, which are 110 stories high and 1,500 feet tall, the World Trade Center consists of seven buildings, including the Vista Hotel. Present in the World Trade Center complex on any given day are 20,000 employees and approximately 80,000 additional people who are either visitors or commuters traveling through the complex.

In mid-February, Nidal Ayyad, after he had also procured chemicals for the operation, rented an automobile and listed Mohammed Salameh as an additional driver. Salameh drove that rental car in mid-February to the B-2 level of the World Trade Center complex, where the conspirators would later place the bomb. As its name suggests, the B-2 level is the second underground level in the complex and was used at the time primarily for parking. A week later, Ayyad exchanged the automobile for another, again listing Salameh as one of the drivers.

Two days before the bombing, as the terrorists finalized their preparations, they used that rental car to survey the B-2 level of the World Trade Center complex one last time.

At the same time, Mohammed Salameh rented a yellow Ryder Ford Econoline cargo van. At the time, he said he would need the van until at least the end of the month.

The day after Salameh obtained the Ryder van to house the bomb, Ayyad contacted AGL Welding and ordered three tanks of standard hydrogen to enhance the power of the bomb. Ayyad requested that the hydrogen be delivered to the storage shed and said he would not be returning the tanks.

That next day, on February 25, 1993, the day before the bombing, AGL Welding delivered the three hydrogen tanks ordered by Ayyad the previous day. Salameh was there to accept delivery. Shortly after he did, Salameh helped load the hydrogen tanks into the Ryder van he had rented the day before and then left the storage facility.

The night before the bombing, in order to distance himself from the Ryder van, Salameh falsely reported to the police that the van had been stolen. In making the false stolen vehicle report, however, Salameh gave a handwritten piece of paper which incorrectly listed the license number of the van. Without the correct information, of course, the police could not register a stolen vehicle report for the van.

The day before the bombing, the conspirators also loaded the bomb into the cargo area of the Ryder van. The completed bomb contained a urea nitrate main charge laced with aluminum powder, magnesium powder, and ferric oxide for extra potency; ammonium nitrate dynamite and lead azide boosters; a smokeless powder booster and hobby fuse inside rubber tubing to prevent early detonation. Further to enhance the bomb's destructive impact, the conspirators also placed three hydrogen tanks inside the cargo area of the Ryder van.

The conspirators then drove the van and its deadly cargo from Jersey City to Manhattan, eventually making their way into the red parking lot area on the B-2 level of the World Trade Center complex, where they parked the van. The conspirators then got out with the bomb set to explode in the middle of a busy workday and fled the World Trade Center complex.

At approximately 12:18 in the afternoon of February 26, the bomb in the Ryder van exploded, killing six people inside the World Trade Center, including a woman who was 7 months' pregnant. The violent blast injured more than 1,000 others, who suffered injuries ranging from smoke inhalation to damaged organs, to crushed limbs.

Apart from certain battles in the Civil War, it was the largest patient-producing incident in United States history.

The blast blew a huge crater in the B-2 level and destroyed portions of the B-1 level above it. A steel beam weighing approximately 3,000 pounds that was immediately adjacent to the point of the explosion was propelled 30 feet inside of Tower One, into a room where four of the people were killed. The Vista Hotel, located directly above the blast area, was almost toppled. The explosion so badly damaged the water system for the World Trade Center complex that two million gallons of water gushed from severed pipes into the subgrade levels. In addition, all of the electricity to the World Trade Center was cut, and the remaining lines had to be severed to avoid electrocution. Thus, as a result of the bombing, there was no lighting, no heat, no emergency power or running

water, and no way to communicate with the complex's numerous tenants and visitors who were forced to evacuate the building.

Contrary to what the conspirators had hoped, not all traces of their bomb were destroyed in the blast. Instead, critical pieces of the Ryder van and its tires, as well as portions of the three hydrogen tanks, were recovered after the blast, providing devastating proof of the terrorists' heinous crimes.

Specifically, an explosives expert concluded that each of the pieces recovered from the crime scene that were later identified as parts of a cargo van displayed unique damage that occurred to only one vehicle in the sub-grade level, that is, the vehicle that housed the bomb. Among the critical pieces of the Ryder van that were recovered included a section of the frame rail which contained a unique confidential vehicle identification number, known as a VIN number. This information identified the vehicle containing the bomb as the Ryder van that was rented by Mohammed Salameh.

On February 27, 1993, the day after the bombing, Nidal Ayyad, who would act as a spokesman on behalf of the terrorists, called the Daily News. He called their tips line to claim responsibility on behalf of what he termed "the Liberation Army." Specifically, in his spoken message, which the Daily News tape recorded, Ayyad proclaimed:

This is the Liberation Army. We conducted the explosion at the World Trade Center. You will get our demands by mail. This is the Liberation Army.

Consistent with Ayyad's announcement to the Daily News that the demands of the Liberation Army would be sent by mail, the conspirators sent a letter to the New York Times. The conspirators' letter stated that the World Trade Center was bombed in retaliation for American support of Israel, demanded changes in the United States foreign policy in the Middle East, and threatened that, if the demands were not met, more terrorist missions would be carried out against military and civilian targets in the United States. Specifically, the letter declared:

We are, the fifth battalion in the Liberation Army, declare our responsibility for the explosion on the mentioned building. This action was done in response for the am political, economical, and military support to Israel the state of terrorism and to the rest of the dictator countries in the region.

If our demands are not met, all of our functional groups in the army will continue to execute our missions against military and civilian targets in and out [of] the United States * * * The terrorism that Israel practices (Which is supported by America) must be faced with a similar one. The dictatorship and terrorism (also supported by America) that some countries are practicing against their own people must also be faced with terrorism.

The American people must know, that their civilians who got killed are not better than those who are getting killed by American weapons and support.

The American people are responsible for the actions of their government and they must question all of the crimes that their government is committing against other people. Or they—Americans—will be the targets of our operations that could diminish them.

The letter was only signed by the Liberation Army, Fifth Battalion.

The conspirators also drafted a second letter, which was later recovered from an erased file on a computer disk seized from Ayyad's office. In the second letter, which the conspirators apparently did not send, they proclaimed that the World Trade Center bomb did not do as much damage as had been intended, because their "cal-

culations were not very accurate this time." They warned, however, that they would be more precise in the future and would continue to target the World Trade Center if their demands were not met.

As the Senator pointed out, after his arrest Ramzi Yousef was a little bit more specific. He said that the conspirators had intended for the bomb to topple one of the towers into the other and kill a quarter of a million people in the process.

At the same time as the conspirators were taking credit for the World Trade Center bombing in the name of the Liberation Army, they also sought to avoid arrest by distancing themselves from the crime and making escape plans.

On the night of February 26, the night of the bombing, Yousef fled on a flight from Kennedy Airport to Karachi, Pakistan. From Karachi, Yousef proceeded to Quetta, Pakistan, located on the Afghanistan border. It took nearly 2 years before he was ultimately apprehended in Pakistan.

Following Yousef's lead, Abouhalima hastily prepared to flee as well. The day after the bombing, he booked a one-way ticket on the first available to the Sudan. On March 2, he flew out of JFK to the Sudan via Jeddah, Saudi Arabia, on a one-way ticket, without his family and without any luggage. Three weeks later, Abouhalima was brought back to the United States after having been turned over to the FBI by Egyptian authorities.

Yasin also purchased a ticket for a flight from JFK to Amman, Jordan, and successfully fled the country. He remains a fugitive to this day.

In the afternoon of February 26, Salameh—confident that the Ryder van had been blown to pieces in the World Trade Center complex—returned to the rental agency and requested the return of his \$400 security deposit. He was told to fill out a police report and return after he had done so.

Salameh also himself began making plans to flee the country to Amsterdam. Although he planned to get away, Salameh evidently hoped to secure the return of the deposit for the Ryder van before he left the country. Accordingly, on March 4, he returned to the rental office to close out his contract and retrieve his deposit.

Unbeknownst to Salameh, however, FBI agents, having traced the Ryder van to the rental agency, and having been alerted that Salameh was coming to claim his deposit, were waiting for him. That day, Mohammed Salameh was arrested.

In the days that followed, agents obtained and executed a series of search warrants for various locations linked to the conspirators and their terrorist plot and ultimately arrested Ayyad, Abouhalima, and Ajaj. It was through this evidence, the evidence that was obtained through those searches and from the defendants at the times of their arrests and other investigation, that we were able to piece together the terrorist plot during the course of the trial.

Mr. CHILDERS. Mr. Chairman, at this time, with your permission, I would like to play portions of two of the videotapes that were seized from Ahmad Ajaj when he and Ramzi Yousef entered the country.

[Videotape shown.]

Mr. CHILDERS. This videotape began with this exhortation to those who would be viewing it:

By God's permission and in his name, you should be careful. There is no other alternative except to wage a holy war and to make a push against the enemies of God. That would be to abide God's order when he said in the Koran, Prepare for them with all you could get of power and saddles of horses to make God's enemies and yours fear you. In God's name, hurrah to jihad. In God's name, hurrah to the battle against our enemies—the Jews, the Christians, the Americans, and the Arab rulers and their advisers who legitimize and strengthen the ruling of these oppressors. In God's name, hurrah to paradises widened as much as the distance between earth and sky which await the hardened believers.

The banner at the top of the screen reads—and believe me, I am not conversant in Arabic, but I am told it reads, "The international Islamic resistance." It then goes on to present a further course in the manufacture of explosive materials.

The next tape that I am about to play, Senators, is the one that was briefly described that contains the scene of the bombing of an American embassy. That actual scene has been grafted onto one of these instructional videotapes from—with apologies to Fred Dryer—what I would term a grade B movie that was made here in the United States called "Death Before Dishonor." It is obvious what sort of inspirational impact this type of scene grafted onto an instructional video for bomb making would have.

[Videotape shown.]

Mr. DEPIPO. Then, Mr. Chairman, we would also like to show just a few of the slides that were some of the exhibits at trial.

[Slides shown.]

Mr. DEPIPO. If you will, those training tapes that were in Ajaj's materials were the call to terrorism, and this was its result. These are just some of the shots from inside of—or some of the photographs from inside of the World Trade Center complex.

You can see here in the foreground there is a car that is destroyed almost beyond recognition. To give you some perspective, you see some agents in the foreground of the Trade Center.

Again, to give some sense of perspective, this red column here was the red B-2 level that I described in my testimony. There was a floor that used to adjoin all of these columns. This is about one story in height. The crater was approximately five stories, and you can see the rubble coming up approximately three of those stories.

This is that large metal beam that was almost directly opposite the van that housed the explosives. It was 3,000 pounds and propelled 30 feet.

You can see as you look at this picture, this is the wall of Tower One. You can see there is a beam here, a beam here. There is also one that goes down this way, and there is one missing here. That was the beam in the previous slide that was sent into the tower. This area out here was actually where the parking garage used to be.

From all that rubble, obviously there were critical clues, and among them—I have just included a couple of slides to show you. These are the various pieces of metal. You can still see the yellow from the Ryder van on some of them that were recovered by agents, and these are the items that they were looking for. Here, just a small piece of what used to be one of the hydrogen cylinders that was actually inside of the van that was recovered. And

through various paint analyses and testimony and records from the people from AGL Welding, we were able to show that these were the three hydrogen—there first were three, and that these were the three hydrogen tanks that were ordered by the defendants.

I am not going to show you a lot of twisted metal, but this was probably the most famous piece. This was the piece that was recovered 2 days after the bombing that actually—this shiny area here had the confidential VIN number from which we were able to trace the van to Mohammed Salameh.

This is the room I described at 40 Pamrapo where all the mixing took place. You can see the walls. This apartment—the conspirators moved in at the end of December. It was freshly painted when they moved in. You can see all the corrosive acids ate away at the paint, and likewise with the doorknobs and the hinges, and it was on this wall that little pieces of crystal of the urea nitrate, the main charge, were recovered.

Finally, we have a copy of the actual terrorist letter that was sent by the Liberation Army, Fifth Battalion.

The really, I think, frightening lessons that we learned from prosecuting this case is the victims were just ordinary folks. They were going about their day. They were going about their lives. They were apolitical. And when you read this letter, you find out that those are exactly the intended victims of the conspirators, the terrorists that bombed the World Trade Center.

Senator KYL. Thank you.

Mr. Colgan, are you ready now?

Mr. COLGAN. Yes, I am.

Senator KYL. Thank you.

STATEMENT OF PATRICK COLGAN

Mr. COLGAN. Since some of the comments I would make would be very similar to my copanelists, I will refrain from repeating. Some of the similarities between these two cases are there. They are obvious. And then there are dissimilarities.

In the matter that I would like to just take a few minutes of your time on, it is a case known at the Sheik Rahman case. Many people refer to it as the second World Trade Center bombing matter, I think mainly because the trial occurred in the No. 2 order, as compared to the others.

The Sheik Rahman case totaled approximately 13 defendants, initially. Two pled guilty. One of the two actually pled guilty to the entire indictment, and the other 11 were convicted in a court of law, Southern District of New York. It was prosecuted by three very capable assistant U.S. attorneys under the guidance of the U.S. attorney in the Southern District, Mary Jo White.

The investigation was handled by just about every law enforcement agency you can think of, and I am afraid before this group to start to name them because I am sure I would omit an agency's involvement. But I can assure you that if it was not for the coordinated and cohesive efforts of all law enforcement in the New York metropolitan area and then throughout the United States and the world, the successes at the end of this trial would not have been enjoyed.

The case in similarities to the World Trade Center bombing case had also a defendant who was in jail at the time that the conspiracy was ongoing. Just as Mr. Ajaj was incarcerated during the World Trade Center bombing conspiracy, an individual by the name of Nosair was incarcerated in New York State prison during the time that the conspiracy was ongoing in the Rahman case.

Some of you may recall that Nosair was convicted for the murder of Rabbi Meir Kahane, a radical Jewish rabbi, back in the late 1980's, early 1990's. I forget the exact date.

What had happened was Mr. Nosair attended a lecture that Rabbi Kahane was giving at a hotel in midtown Manhattan, and it was a public session, and during the after-remarks, Mr. Nosair actually walked up to Meir Kahane and murdered him in front of many witnesses. Mr. Nosair escaped from the hotel, followed by others, and eventually was caught outside and shot by a passing postal police officer. He was incarcerated from that time on. During his trial, he was not convicted of the murder of Meir Kahane, but instead was convicted of carrying a weapon and assaulting the postal officer. I believe he was sentenced to approximately 8 years.

It was during this time of his incarceration that Rahman came to the United States and started to preach the tenets of Islam in a radical manner, and perhaps comparable to figures that are despicable to the world, such as Jim Jones, Hitler, David Koresh, and others, I believe Rahman could fall into that same category of leaders that had their own self-motivations at heart, and nothing—nothing—would stop them from achieving those goals.

So, what Rahman would do is, during his sermons to his religious followers, he would not preach the true tenets of Islam but would preach tenets of war. For example, let me read to you just some excerpts of a sermon that Sheik Rahman gave to his followers.

The battalions of Islam and its divisions must be in a state of continuous readiness. They must be pre cautious and hit their enemies with strength and power, in a way that when they hit the front lines, the rear lines will be dispersed and scattered. When you attack them at war, then you try to disperse the rear lines so that they may take a lesson. The Almighty God loves the fighters, so you should love the fighters as God loves them. Because it is our duty to love whomever God loves, God loves those who fight for his sake as if they are one row, like the solid building.

Know it is those who have the right to have something are terrorists, and they are terrorists, and we rejoice in being terrorists. And we do not deny this charge to ourselves. And the Koran indicates that among the causes for jihad is the purpose of frightening the enemies of God who are our enemies, too. Then we must be terrorists, and we must terrorize the enemies of Islam and to frighten them and to disturb them and to shake the earth under their feet. When we abandon the jihad for the sake of God and abandon terrorism to the enemies of Islam, what has become of us?

Who is the one who is fighting the Muslims and who is the one who wants to destroy them? There are two enemies. The enemy is at the foremost of the work against Islam, are America and the allies, who is assisting the Serbs, and who is providing them with weapons and food. Europe and behind it is America who are providing them with weapons, money, and food in order to completely exterminate the Muslims.

And from among the solutions that distance us from the Islamic solution are to make demonstrations to the United States, the enemy of God and the enemy of Muslims. We resort to it, and we outcry in front of it, and they, too, do not pay attention to us. Even the Western media didn't talk about those who demonstrated and those who outcried, and they do not pay attention to these matters. Also among the bad solutions is to write to Congress, appealing and asking for help in humiliation and supplication to interfere in our problems and to solve them. It is

humiliating and intimidating that we write to the Presidents in America and other countries. We belittle and humiliate ourselves in front of them and ask our enemies to interfere and to solve our problems.

These are a few sentences and excerpts from a sermon given to his followers by Sheik Rahman. Who were his followers? All the gentlemen identified by my copanelists, and the 13 members of the Sheik Rahman trial. These were the people in attendance at many, many of Sheik Rahman's sermons who were incited to perform acts against this country at the direction of their leader.

Now, the thing that made Sheik Rahman different, and where he violated surely our freedom of speech, was the fact that in the Sheik Rahman case we did have a cooperating witness and prior informant who was willing to meet with Sheik Rahman in private, meet with others who were very close to Sheik Rahman, and record conversations wherein Sheik Rahman would take his religious views and then privately discuss authorizations for activities on the parts of his subordinates.

That was the crux of the Sheik Rahman case. It was a case totally different in the courts than was the World Trade Center case. The Sheik Rahman case involved coconspirators, witnesses, and tapes. The trial lasted almost 1 year. It was a case that went 4 days a week, and then on Fridays it was preparation for the next 4 days.

The jurors were available for almost 12 months. They heard testimony that was longer than any other trial in the United States except for one. I believe there was one other case longer than the World Trade Center case.

They returned a verdict in early October 1995, and convicted all 11 remaining defendants of almost all of the charges in the original indictment. The work, again, was a joint effort on the part of a tremendous group of prosecutors, legal scholars, and law enforcement people, other than the FBI, other than Federal agencies. It could not have been done without the cohesive effort of all.

I would like to show a short tape that to me is compelling because it was done after the trial was completed and the convictions known. The tape is a copy of an "Inside Edition" exposé, a short segment. It is only about 5 or 6 minutes. But it shows simulationwise what would have happened if Sheik Rahman and his followers were able to complete their plan, their plan being blown up almost simultaneously the George Washington Bridge, the Lincoln Tunnel, the Holland Tunnel, the Federal Building and the United Nations, and other New York City landmarks. Their intent, where perhaps the World Trade Center had failed in their eyes, was to do a crime such as these to send their message to America to quit supporting their enemies.

[Videotape shown.]

Mr. COLGAN. I think that video does sum up what could have happened, and thank God, didn't. The few clips that you did observe of the FBI law enforcement safe house was the location where fuel was brought in by the defendants for the intent of mixing it with urea nitrate, which was brought in by some of the defendants. Other defendants brought in detonators and weapons. So this case went as far as it could given the dimension that was

known to us and had to be stopped before any of those items left that warehouse that fortunately law enforcement was controlling.

Therefore, the Sheik Rahman case in court was a totally different prosecution than the World Trade Center bombing matter. And, again, I think we are all thankful for the different types of prosecutions but the same results.

Senator KYL. Well, let me say on behalf of the entire committee, again, I thank this panel, each of you, not only for your testimony here today to help enlighten us on this fifth anniversary of the World Trade Center bombing, but also in the work that you performed to bring these people to justice.

We are also joined by Senator Grassley, and what I think we will do, in view of the fact that we have two other panels, is to have a 5-minute questioning period for each of it, see how that goes. Obviously, Senator Feinstein and I were just talking, and we could ask you questions all day about not only this case, the details of it, but also some of the implications with respect to future terrorist activities and what we do about it here in this country. But let me begin with a few questions.

Mr. Colgan, the last point you made I think is critical because it also illustrates the difficult decisions that law enforcement has to make sometimes. When you have evidence that a criminal activity is being planned and you have some capability of monitoring that, you have got to decide when to pull the plug, in effect, when to stop the activity and try to make the case, even though that makes making the case more difficult.

Could you just very briefly describe the decisionmaking process here? How far along were these people in their plans to blow up these five different parts of the New York area? And how was that critical decision made, to go in, make the arrests, and then try to make the case?

Mr. COLGAN. The critical decision always hinges—always—on destruction of life and/or property. That is the catalyst all law enforcement has to factor in when making its decisions. Obviously sometimes law enforcement moves too quickly and the legal process is stymied afterward by those efforts, but the whole process is to protect life and property.

In this particular instance, law enforcement and in conjunction with the prosecutors, we felt we had developed the conspiracy to a point where it was a prosecutable conspiracy without endangering the welfare of the general public, keeping in mind that warehouse building was in a commercial/residential area. It did contain some products that, if mixed or put together, could accidentally explode at the wrong time or at the wrong place.

So, those concerns were also there, given the dimensions of the plan in the first place, but also the concerns for the immediate neighborhood that this building was located in.

Senator KYL. So, some of the chemicals had actually been mixed, the bombs were being made, and the plans were pretty far along in their formulation. Would that be a layman's summary?

Mr. COLGAN. Correct. That would be a very correct summary.

Senator KYL. OK; there are so many questions involving Ramzi Yousef and the others, Ajaj and the others, on the World Trade Center case. Just to get our timing right here, either for Mr.

Childers or Mr. DePippo, was Ajaj in jail this entire time, including the time of the explosion, the World Trade Center bombing? I didn't calculate the months that he served.

Mr. DEPIPPPO. Yes, Senator. He was in jail from the time he entered the country essentially until a week after the bombing.

Senator KYL. And whatever happened to the blue books, the manuals on how to make the explosives?

Mr. DEPIPPPO. They were initially seized by the INS. They were transferred to the FBI for study and analysis. They ultimately made their way into the courtroom, and I believe are still with the prosecutor.

Senator KYL. So, they were not returned to either Ajaj or Yousef.

Mr. DEPIPPPO. No; they were not.

Senator KYL. And that presumably is the reason why Yousef had to continue to call Ajaj to get his expertise in how to proceed; is that correct?

Mr. DEPIPPPO. Among other reasons, yes.

Senator KYL. What happens when a call is made and then they patch through to a third party in terms of law enforcement's ability to track that second call? You made reference to the fact that it made it more difficult for you to track the second call.

Mr. DEPIPPPO. The way the calls are tracked through the Federal prison system, you can input, for example, a number that is dialed and then get all the hits, if you will, to that number. So when Ajaj would call his friend, if his friend's number was input, that number would come out in the Bureau of Prisons on a computer printout.

What the friend then did, though, is patch that call back up to New Jersey to Ramzi Yousef so that Ramzi Yousef's number is not at all triggered in any data base maintained by the Bureau of Prisons. And that is how he was able to defeat that system, if you will.

Senator KYL. Now, these calls are registered, but they are not monitored; is that correct? Or is this a question that——

Mr. DEPIPPPO. They are tape recorded.

Senator KYL. They are tape recorded.

Mr. DEPIPPPO. And there is standard policy, they are tape recorded, and there is notice given that they are being tape recorded, which is why in some of the earlier calls you had Ajaj cautioning people on the other end that, in fact, they were being tape recorded and that they should speak in very guarded language.

Senator KYL. OK.

Mr. CHILDERS. If I may, Senator, one other thing. Given the way the system works, if you don't know what number you are looking for, even though on some shelf somewhere, for a limited period of time, there will be a recording of a possibly incriminating conversation, if you don't have the phone number with which to initially look for it, you are never going to find your way to that conversation.

Senator KYL. Does that particular issue have any relevance to concerns that the FBI has expressed regarding the ability to tap certain digital telephone conversations in the future, do you know? Do any of you know?

Mr. COLGAN. Well, with digital——

Senator KYL. So-called conference calling problem.

Mr. COLGAN [continuing]. With digital technology, that was the thrust here before Congress a number of years ago by predecessors of mine. In the case that we are talking about right now, the only way law enforcement could have realized there was a three-way call here was to first, as Mr. Childers said, find the phone number that was called, go to that phone number, subpoena records for that particular phone number—in this case, the Texas number—and then reviewing manually calls from that number to anywhere else that were done in the same time frame as the call from prison. So, it is a very laborious process, and the ability to track these is in place. The new digital technology would probably not change that particular tracking aspect. But we would need what you have given us to continue to do that job.

Senator KYL. In terms of legal authority on a tap, can you get authority, a blanket authority, in effect, to try to be involved in any communication resulting from the second connection even though you have originally simply gone in with authority to tap a particular phone? In other words, say you are tapping the phone in jail, and you have legal authority to do that. Does that authority extend to the conferencing of a third party by the second party?

Mr. COLGAN. I will defer to the legal scholars.

Senator KYL. Well, if we are way off base here, we will get into that later if nobody can comment.

Mr. CHILDERS. I will give you a short answer, and then I will say we are straying off base. But, Senator, in the prison scenario you have just stated, given the fact that it is clearly stated in the prison—prisoners are actually given printed notices that all conversations will be taped and monitored. I don't think—as long as that open line is on, I don't think there is a legal problem in that respect because that person is still responsible for the call.

Once you get outside the prison scenario, then things begin to change.

Senator KYL. We will maybe take it up later. Let me just ask one final question of the two of you. Based upon your extensive knowledge of this case, as well as your investigation of Sheik Rahman, have you formed an opinion as to whether there may have been any state sponsorship behind these actions?

Mr. CHILDERS. Your Honor, with respect to the actual trial for the bombing of the World Trade Center itself, there was no evidence adduced of any state sponsorship. During the course of the Sheik Rahman trial, I think maybe Mr. Colgan can address what, if any, evidence was adduced there.

Mr. COLGAN. It was obviously a point of view that law enforcement was always interested in and concerned about. There was never any factual evidence that, in fact, there was state-sponsored support here.

I will add, in the Sheik Rahman case, it was somewhat of a United Nations endeavor inasmuch if you looked at the backgrounds of all 13 defendants that were convicted, you had people that were from the Middle East, Egypt in particular, Sudan, one of Hispanic background, and some that were naturalized American citizens, and citizens who were born here. So, it would be very hard to isolate one particular foreign country and say they sponsored this.

Senator KYL. I think, in concluding my remarks, that is an interesting point that we are going to want to dwell on a little bit later, too, because we do have essentially two problems here with foreign terrorists. One is the so-called state-sponsored terrorism, not always difficult to establish, but also the situation where there is no state involved but a group that simply decides to conduct an activity, and that group can be motivated by all sorts of different motivations and have no particular relationship with a given country.

I will be reading into the record the CIA summary of a recently issued fatwa, a charge by clerics to conduct terrorist activities in connection with action that the United States may be taking soon with respect to Iraq. And it illustrates the fact that it doesn't necessarily have to be state-sponsored in order to have the same devastating results.

Senator Feinstein.

Senator FEINSTEIN. Thank you, Mr. Chairman.

I want to just follow your line of questioning for a minute, but before I do, let me just extend my warm congratulations to the three of you for a job well done. I think it is a spectacular prosecution, so congratulations.

Let me go back to the phone calls from prison. Mr. Ajaj has a false passport, and he has bombmaking information. All the signals have to go out that here we have a terrorist. He is convicted, and he goes to prison.

Are there any special prison practices with respect to the number of calls he can make? How frequent were his calls? How many calls did he make? When you know you have someone that is likely to be a terrorist, is that reasonable cause for a tap to be able to follow those conversations while they are happening?

Mr. CHILDERS. With respect to Mr. Ajaj, again, while someone is in a Federal prison—the same is not true of all State prisons. Some States tap their inmate phone calls; some do not. But all Federal prisoners, all phone calls except phone calls to attorneys, are, in fact, taped. So there is no need to seek title III wiretapping orders for conversations—

Senator FEINSTEIN. Excuse me. Are they translated immediately?

Mr. CHILDERS. No.

Senator FEINSTEIN. So, they are just taped and stored?

Mr. CHILDERS. That is correct.

Mr. DEPIPO. And then taped over again.

Senator FEINSTEIN. Which doesn't do much good in terms of trying to find out what he is actually about.

Mr. CHILDERS. That is very correct. In fact, the phone calls that were ultimately introduced into evidence at the World Trade Center trial between Mr. Ajaj and his intermediary to Mr. Yousef were never translated. And, in fact, some of them were never discovered until the first World Trade Center prosecution had actually begun. Because of the three-way patching, we had not even located some of these phone calls until 2 or even 3 months into the trial. We then had to have them translated from the Arabic into English and then mount, to a certain extent, a legal battle to get them admitted into evidence since they had only been discovered after the commencement of the trial.

Senator FEINSTEIN. How many calls were made in his case?

Mr. CHILDERS. I can tell you approximately how many we know of. Another aspect of the taping system, since funding is not unlimited—and this is not a hit-up at Congress for additional funding for BOP. But, obviously, the tapes used to record these calls are limited. So, after a certain period of time, they are reused. So, these calls are only preserved——

Senator FEINSTEIN. And not translated?

Mr. CHILDERS. That is correct. They are not translated unless there is a specific request for them to be translated. And, typically, that does not happen unless there is some heightened awareness or heightened interest by other members of law enforcement on the phone calls of a particular inmate.

Senator FEINSTEIN. So, how many calls did he introduce?

Mr. CHILDERS. We introduced approximately 20 calls that we were able to identify. Now, we had lost a number of calls because of the timeframe involved and the fact that some of those tapes had been reused already. But we did introduce evidence of approximately 20 calls, and we introduced evidence and phone records of more calls than that, but as I said, ones that we were not able to capture because of the timeframe problem.

Senator FEINSTEIN. Is someone who comes into the prison system under the circumstances that Mr. Ajaj did allowed any number of phone calls?

Mr. DEPIPPPO. Yes, I guess to fully answer that question, as far as the Bureau of Prisons was concerned, he was in there for passport fraud. There was no special monitoring of Mr. Ajaj during that time period. Even though he was speaking in a foreign language, no one was simultaneously translating the calls. And so, from the Bureau of Prisons standpoint, there was no reason to have heightened scrutiny for somebody who is in for passport fraud.

Senator FEINSTEIN. But he had the blue books. I assume the books were looked at. I don't know whether he had the tapes or not.

Mr. DEPIPPPO. He had the books and the videotapes. Ironically enough, at the time he had directed his attorneys to feverishly engage in a legal battle to try to get those materials returned to him and, in fact, had the court order that those materials would be returned to him.

Senator FEINSTEIN. But it signaled no potential danger to anybody that reviewed any of that material?

Mr. DEPIPPPO. It did not at the time.

Mr. CHILDERS. In terms of the Bureau of Prisons.

Mr. DEPIPPPO. Right.

Mr. CHILDERS. The FBI was obviously very aware of it, and, in fact, Mr. Ajaj, as Mr. DePippo said, pled guilty to passport fraud and received a 6-month sentence. At the time of the sentencing, the U.S. Attorney's Office for the Eastern District of New York, the assistant U.S. attorney handling that case requested an upward departure under the terrorist provision in the sentencing guidelines. The judge denied the upward departure. Although she stated on the record that she was very skeptical of what he could possibly be holding these manuals for, she thought that the Government had not at that point in time produced enough evidence to warrant an

upward departure from the otherwise normal sentence for a passport fraud.

Senator FEINSTEIN. So, if I understand it, if somebody is stopped coming into this country and has incriminating material, that incriminating material alone does not signal any special handling of the individual.

Mr. CHILDERS. It did not, from a Bureau of Prisons perspective, it did not with respect to Mr. Ajaj. I certainly do not pretend to know all the ins and outs of what would happen in those situations today as opposed to in 1992.

Senator FEINSTEIN. We should find that out.

Senator KYL. Absolutely.

Mr. CHILDERS. One thing I would point out, for instance, when Ramzi Yousef was sentenced on January 8 of this year, the judge who conducted the trial, Kevin Duffy, included in his remarks a number of conditions that he requested, since he does not have the power to order the Bureau of Prisons to abide by his instructions, but he requested that Mr. Yousef not be allowed to use the telephone at all unless and until he could verify that the person he was, in fact, talking to was a blood relative and that he would not be allowed any phone calls until that were to take place. So, at least, with respect to Mr. Yousef, maybe that demonstrates an awareness that the use of the phones by prison inmates is something that needs further attention.

Senator FEINSTEIN. And do you know the other—well, the other defendants who were convicted, are there any special statements that go with their files to prison authorities so that not only are they taped but it is translated immediately?

Mr. CHILDERS. I hesitate to say that they are translated immediately, but I do know that with the defendants involved in these series of prosecutions, the Bureau of Prisons—the individual facilities that house them are all well aware of what they were convicted for, and their phone calls as well as visitors and other things are given very special attention.

Senator FEINSTEIN. Thank you very much. Thanks, Mr. Chairman.

Senator KYL. Thank you.

Senator GRASSLEY.

Senator GRASSLEY. A couple things before I have a couple questions for this panel. No. 1 is, I won't be able to be present at the second panel, and I want permission to submit some questions in writing. No. 2, would be to visit with my two colleagues about the General Accounting Office reports that were issued in September and December examining our Government's action to combat terrorism. Based on those reports and some investigating that I have done, we are starting to learn some things about our Government's efforts to counteract terrorism.

First of all, we don't know how much money is being spent to combat terrorism. That concerns me that we don't know the exact amount. Now, we have spent at least \$7 billion in 1997. But that is for unclassified programs.

There are, at least, 44 agencies that are tripping over each other for roles and missions and money in the counterterrorism arena,

and one of the operational players of all agencies even happens to be the IRS.

Now, at the same time, the General Accounting Office is admonishing us that: "There is no interagency mechanism to centrally manage funding requirements and requests to ensure an efficient, focused, government-wide application of Federal funds designed to combat terrorism." And that is the end of that quote from GAO.

The point that I would like to make to my colleagues is that if we don't have anyone managing the counterterrorism programs for the Federal Government, then obviously we can't avoid duplication and redundancy among agencies as they compete for roles and missions and, most importantly, for the money. And if we had that sort of competition without some sort of managing, I don't think our effort is going to be as effective as it ought to be.

One very good example of this would be the FBI's desire for a new HAZMAT lab to analyze biological, chemical, nuclear, and environmental toxins. Meanwhile, the Government already has laboratories that do these types of lab analysis, for instance, DOD, EPA, Department of Energy, CDC, and I could even list others. And most of these have decades of experience in the field, and the FBI is attempting to duplicate their capabilities.

The handling of the anthrax captured in Nevada is a good example of how it is done and how it should be done. The anthrax went to the Army lab in Maryland and was handled to preserve the forensic evidence, like fingerprints, and it is not clear why the FBI then needs to have the same capability.

I raise this point as much for my colleagues as I would for the witnesses because 17 years ago I know that the Congress, with the best of intentions, set out to build our national defense, and did, but we did at the same time spend a lot of money wastefully. And I don't want to see us repeat the mistakes that we made then in the war on terrorism, and particularly, I don't want us to be fighting the war on terrorism with a hollow army.

So, I think that somehow through these hearings and actions we take afterward, not just with this committee but there is more than one committee involved, we need to get a handle on the threat and risk assessments that are facing us, and we need to base our requirements on fundings on those assessments. And then, I think, without a doubt we don't have that yet, and I think the General Accounting Office has credibility and has made that clear. We don't have interagency coordination, and until that happens, we don't know if we have an effective counterterrorism program. And I hope that that will be a concern to all of us.

For the panel, I would ask you that a large part of the Anti-Terrorism Act of 1996 was enacted to help us facilitate the prosecution of terrorists, and so from your very unique experience and long period of time working on this one case and being very successful—and we thank you for it—has the act accomplished our goal? And if not, what else do we need to be doing to assist these prosecutions?

Mr. DEPIPO. I think, at least in partial answer, it has gone a long way. Keep in mind at the time this case was charged, indicted, and went to trial, there was no criminal statute on the books that directly related to domestic terrorism. We prosecuted these defend-

ants under statutes that relates to the destruction of buildings used in interstate commerce, the destruction of automobiles used in interstate commerce, and the like. Those were the statutes that were available to us to prosecute these defendants, and, of course, there was no death penalty at the time.

Obviously, in the wake of the World Trade Center bombing, Congress took action and enacted specific laws, specific criminal laws, that deal with domestic terrorism.

Senator GRASSLEY. Do any of the others want to contribute to the question?

Mr. COLGAN. I would support Mr. DePippo's statement, Senator, and also add that in the Sheik Rahman prosecution, one of the charges was sedition. I don't believe that charge has been brought before a court many times in the last 100 years. So we needed the bill that was subsequently passed by Congress.

If I just may take a moment to address your concerns about cooperation amongst counterterrorism agencies—

Senator GRASSLEY. And also the GAO's concern.

Mr. COLGAN. I grant you that, but I just want to offer, as far as my background goes in law enforcement, 27 years, surely when I started one agency would not even speak to another agency. I am talking about law enforcement. And over the course of time, through various very good and supportive positions by managers in law enforcement and various U.S. attorneys and police commissioners, we now have what is at least a great start for a joint investigative community out there. And as I started with my remarks, the World Trade Center case, I believe, and surely the Sheik Rahman case would not have been brought into the U.S. attorney's office or the courts were it not for the joint efforts of law enforcement, not one agency but many.

So I believe the counterterrorism joint effort is coming. Is it perfect? No, of course not. But there is a much more cohesive effort out there today than I had ever seen in my earlier years.

Senator GRASSLEY. But there is not a coordinating group with authority, a coordinating body with authority. That is what the General Accounting Office—

Mr. COLGAN. I am not familiar with that report.

Mr. CHILDERS. I think two things, if I may, Senator. First of all, I think that is correct. There is no formalized structure, and that I think is probably what the GAO was getting at. I can assure you, however, while I am no longer with the Government, I was a prosecutor for 16 years, and for the last 5 of those dealt almost exclusively with some of these terrorist issues.

There is a tremendous amount of—I hesitate to even call it “unstructured” formal cooperation, because it is relatively structured although not terribly formalized in any sort of Venn diagram. But the observation of the General Accounting Office is accurate in that respect.

I would offer one more observation, and I don't mean to begin a battle that I was not here to carry forward at all, but I would make one observation, again, as a former prosecutor for 16 years. With respect to the FBI's request for their HAZMAT lab, I think there is, notwithstanding the best efforts of either the—any of the military laboratories which are exceptional, or the Centers for Disease

Control or EPA or even the Nuclear Regulatory Agency's laboratories, there is no substitute for the handling of evidence to make sure that it can find its way into a courtroom than by having it handled by people who day in and day out have been trained and live with the constrictions that are required in terms of maintaining a chain of custody of that evidence to get it into a courtroom.

As it is, even with the best intentions of law enforcement in any case—be it a huge terrorist prosecution or a simple capture of someone for sale of a small amount of drugs—the criminal justice and the court system put up a number of constitutional barriers, which I am not denigrating, but that make it difficult to get that evidence into trial. And I think if you start to take things that you hope will find their way into evidence in a court of law and put them in the hands of people who are not trained and who do not have to live in that culture, I think you run a greater risk of more evidence being excluded.

Senator GRASSLEY. Thank you all. I will submit my other questions both to this panel and the other panel in writing.

Senator KYL. Thank you, Senator Grassley, and I want to thank all members of the panel. We have had you up here almost 2 hours, so we will let you go. But I think anything else that you would like to submit for the record and certainly in answers to questions, we will look forward to those comments.

Also, Senator Hatch would like to seek unanimous consent to submit a statement for the record and questions for the witnesses, and without objection, they will be received. Unfortunately, he can't be here today, but I appreciate his support for our hearing here today.

[The prepared statement of Senator Hatch follows:]

PREPARED STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

I thank Senator Kyl for holding today's hearing on one of the most critical issues facing our nation: the threat of terrorism on our shores. This hearing is focussed on the issue of how foreign terrorists infiltrated, planned, and executed the bombing at the World Trade Center. I hope that this hearing will assist the Committee in improving our oversight of anti-terrorist law enforcement efforts, as well as point out where current federal law is inadequate to combat terrorist operations.

I am proud that, in the 5 years since the World Trade Center incident, the Congress has made progress in the fight against terrorism. In 1996, we enacted the Antiterrorism and Effective Death Penalty Act, which included several significant provisions designed to deter, capture, and punish terrorists threatening our citizens.

The 1996 act included a comprehensive plan to prohibit fundraising for foreign terrorist organizations, provisions to remove and exclude foreign terrorists from residing in the United States, and a host of other improvements to our federal response to terrorist threats.

When the Congress considered anti-terrorism legislation in the aftermath of the World Trade Center and Oklahoma City bombings, one area where we discovered one clear weakness was in the law governing biological weapons. At that time, it was a crime to use human pathogens as a biological weapon, but it was not illegal for persons with no legitimate reason to possess these legal agents to do so. I introduced legislation, which was subsequently included in the 1996 antiterrorism bill, making it a crime to attempt or conspire to develop or possess biological agents for use as a weapon.

It appears that the FBI recently utilized this new law enforcement tool given to them by the Congress. I am encouraged to see the FBI is taking preemptive action where there is evidence of a potential use of biological agents.

Law enforcement must be vigilant against potential use of biological agents, and the congress likewise must exercise effective oversight of our nation's capability to

combat the threat of biological terrorism. Today's hearing is a crucial part of that oversight, and I again thank Senator Kyl for his leadership on this issue.

[The questions of Senator Hatch are located in the appendix.]

Senator KYL. Thanks to all of you, and, again, congratulations for a job very well done.

Mr. CHILDERS. Thank you.

Mr. DEPIPO. Thank you.

Mr. COLGAN. Thank you.

Senator KYL. While the first panel is exiting, let me call the second panel to the dais, please: Dale Watson of the Federal Bureau of Investigation, Walter Cadman of the Immigration and Naturalization Service, and Richard Rohde of the Office of Investigations of the U.S. Secret Service.

The focus of our second panel is to provide information about the nature and extent of current foreign terrorist activities in America, with a particular focus on the criminal enterprises in which foreign terrorists engage.

We begin our second panel with Dale Watson, chief of the International Terrorism Operations Section of the FBI. In this capacity, he is responsible for the direction and support of all of the FBI and joint terrorism task force international counterterrorism investigations and planning. Mr. Watson will begin his testimony of an overview of the last of the World Trade Center-related cases, often referred to as the Manila airliner case, one of the most fascinating aspects of this entire episode, I might note. Mr. Watson will then discuss the FBI's assessment of the current activities of foreign terrorist organizations operating here, the threats that these organizations pose to the United States, and the legal difficulties in pursuing these cases.

I think as we did with the first panel, we will have each of the panelists make their comments and then open the floor to questions from the members of the committee unless either of you feel constrained to interrupt any of the individual witnesses.

Mr. Watson, thank you very much for being here.

PANEL CONSISTING OF DALE L. WATSON, SECTION CHIEF, INTERNATIONAL TERRORISM OPERATIONS SECTION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC; WALTER D. CADMAN, COUNTERTERRORISM COORDINATOR, OFFICE OF FIELD OPERATIONS, IMMIGRATION AND NATURALIZATION SERVICE, WASHINGTON, DC; AND RICHARD A. ROHDE, DEPUTY ASSISTANT DIRECTOR, OFFICE OF INVESTIGATIONS, U.S. SECRET SERVICE, WASHINGTON, DC

STATEMENT OF DALE L. WATSON

Mr. WATSON. Thank you, Senator Kyl. Thank you for this opportunity to come up and discuss the terrorism issue today.

I have submitted for the record an opening statement that I will try to summarize here in just a few minutes to be brief and highlight the comments that are submitted for the record.

As we all know, in 2 days is the fifth anniversary of the World Trade Center. That threat clearly brought home to the American public that an international terrorism event could occur in the United States on U.S. soil. In addition to that, the Oklahoma City

bombing in April 1995 also reinforced that and helped the U.S. Government, especially law enforcement agencies, to adopt an aggressive and enhanced effort against the terrorism threat.

Senator KYL. Bring your mike down just a bit, please. Thanks.
Mr. WATSON. How is that?

Senator KYL. Get it pretty close to you. That will help us. Thank you.

Mr. WATSON. I am happy to say that our No. 1 priority obviously is the prevention of a terrorist act in the United States or against U.S. citizens overseas, but I am happy to reveal that since the World Trade Center there have been no significant international terrorist event occurring in the United States since the 5-year plan.

What I briefly want to talk about this morning is I want to cover four areas: first of all, the lessons we have learned since the World Trade Center, particularly with a short briefing on the Manila air case; the second area is the threat posed today on terrorism within the United States; the third is the FBI response since the World Trade Center, what we are doing and what we have done since the World Trade Center occurred and the Oklahoma City bombing; and then, last, the fourth area will be the steps that we need in the future to enhance us and to continue on this path of counterterrorism in the United States. So let me go forward from here.

First of all, I would like to discuss what we view as basically the three lessons that were learned since the World Trade Center from the law enforcement FBI perspective. First of all—and I think it has been discussed here this morning—is the danger posed by loosely affiliated groups, not necessarily as you said, Senator—and I agree with you 100 percent—not state-sponsored, not organized groups in the traditional Hizbollah-type Egyptian Al-G process, but loosely affiliated groups. And certainly you can see that in the Ramzi Yousef type organization, the blind sheik organization. These were people cross-cultural, brought together, came together for one common purpose, and that was to attack the United States and its citizens. So we have learned a lot. And we also learned from that process about the loosely affiliated groups. We learned the difficulty they are for law enforcement—very difficult to penetrate, very difficult to get a handle on how many loosely affiliated groups are in the United States, because they are loosely affiliated and do not talk generally outside the small knit groups that have been formed up. So that is the first lesson learned of the danger posed by the loosely affiliated group.

The second lesson learned is that terrorists use technology in the advancement of their programs and their events. We see this today in the United States through the efforts by terrorist organizations, and particularly in the Internet, to raise funds, to proselytize, to recruit. We even see Hizbollah and Hamas who have home pages on the Internet. We also saw during the blind sheik's trial the solicitation of funds on the Internet for his defense legal fees that were occurring.

Certainly, probably the one that drove it home the most was Ramzi Yousef's use of technology, and I will talk about that in the Manila air case, and how we were able to obtain his laptop computer and decrypt what he had on that and figure out exactly what his plans were for American airliners.

Also, the use by the terrorists of technology also is a double-edged sword in the fact that they also are vulnerable and that presents an opportunity for law enforcement. Let me explain the Manila air case briefly.

As has already been stated, after the World Trade Center Yousef fled to Pakistan. He continued on his travels and ended up in Manila. He did not at any time cease his activities to conduct terrorist activities against the United States. While in Manila, he devised a plan to attack U.S. air carriers flying from the Pacific Rim back toward the United States, and his plan was to blow up those airliners as they traveled. He tested his program or tested his plan back in December 1994, when a Philippine airliner bound from Manila to Cebu and then on to Tokyo—Yousef boarded that plane in Manila to Cebu, and on board the plane he constructed a crudely made bombing device that was put under the seat. And when he arrived in Cebu, he got off and the plane continued on. And during the flight from Cebu to Tokyo, that is where the bomb exploded and killed a Japanese businessman. That occurred on December 11, 1994.

He came back after realizing that he needed to have a little more power to bring down these airliners, and he and two of his co-conspirators met at this rented apartment they had in Manila in January 1995, and the two individuals who have since been convicted—an individual by the name of Murad and Wali Khan—were also part of this conspiracy and part of his activity in Manila.

A lucky break occurred or a fortunate break occurred for law enforcement on January 7, 1995, while they were mixing chemicals to advance their airline—attacking U.S. airliners. A fire broke out and the apartment caught on fire. The three of them ran outside, and Yousef, while he was outside, realized that he had left his laptop computer inside. So he sent Murad back inside to get his laptop computer and was subsequently arrested by the Filipino national police. That led us on this track that led to the encryption—

Senator KYL. Excuse me, but why did they arrest him?

Mr. WATSON. There was a chemical activity substance, and the Filipinos arrested him based upon the illegal chemicals and substance being mixed.

To continue this story a little further, we got the laptop, and we were able to decrypt what was in that laptop computer, and I will go over what he was planning on doing and how he had attempted to carry out this.

As we mentioned, Yousef—here is a picture of him. Go ahead, Brian, with the next slide. His intentions were to take Casio-type stop watches. He would remove the alarm system and have two wires running to a 9-volt battery of which he would make a bridge loop to some chemicals that had dried out in cotton, and then the material that was soaked in cotton was very flammable. On top of that, he would place a nitroglycerin-type device that, once the chemicals—once the alarm of the Casio watch went off, that would ignite the cotton and cause the nitroglycerin to explode.

These are just pictures of actual stuff that was recovered. He intended to set off these bombs by having his conspirators go aboard connecting flights like the Japanese businessman flight that was

occurring. What he would do was in order to get the cotton on board, he would take children's dolls and have them stuffed with cotton. The cotton was already soaked with the highly flammable stuff. It was dried out. In addition to that, he would take—in order to get the 9-volt batteries on board the plane, this is not a very good picture, but you can see a child's police car, battery operated. So he would take that along, and that would be a method to get his wires and his battery through the airport security in addition to the children's toys.

The third ingredient that he needed was the accelerant, very similar to nitroglycerin, and what he would do would be putting that in contact lens solution cases, et cetera. Once he and his co-conspirators would get on board the plane, they would go to the bathroom, take out these parts, mix these chemicals up, and set the alarm on the stop watch of the Casio watch for a certain time on the next leg of the flight. His plan was for these things to go off, charge up the cotton, set the cotton up as highly flammable, and cause the accelerant to explode. That was his plan. He planned on doing that not only with his other coconspirators but others involved in the case. And what prevented that was the actual fire in the apartment, and we were able to decrypt his operation.

A very interesting individual, very hard-core, as you well know, and the other Senators well know, and they did not mention this in the first panel, but at the time that he was sentenced, someone asked him—and it was picked up by several people—to comment, and he said, and I quote him, "Yes, I am a terrorist, and I am proud of it." So he was not only the World Trade Center, he moves to Manila, cooks up this stuff, but after the Manila incident, when he escapes, he escapes back to Pakistan. We know while he is in Pakistan that he is also surveilling U.S. diplomats and U.S. citizens in order to carry out terrorist acts.

Back to the loose-knit group, very, very dangerous group of individuals that we saw.

Real briefly, the third lesson learned from the World Trade Center and probably the Oklahoma—maybe not so much from the Oklahoma City bombing case—is that action causes reactions. Our successes in the area of counterterrorism certainly triggers terrorism groups and organizations and loosely affiliated groups to strike back at what our successes have been. Without specifically tying in the Luxor November 1997 terrorist attack in Egypt, wherein 64 individuals were killed, we see that with messages and looking at that in conjunction with the Egyptians as certainly a method or the message is left behind indicating that they were very much interested in attacking Americans—no Americans were killed in that attack—and they were very much interested in getting Sheik Rahman released from prison in the United States.

We receive on a regular basis threats from terrorist groups, loosely affiliated as well as established groups, about if you don't release the blind sheik or if something happens to him, we are going to retaliate against Americans. So our success in that case has also led us into an area to expect certain things in retaliation.

The second area I want to talk about real briefly is the threat today due to the classification—or the unclassified portion of this. I will skim over most of this, but I will tell you that state sponsors

of terrorism are the countries that you all know and so designated by the State Department are in the United States, obviously, with missions in the United Nations as well as most of them with interest sections here in Washington, DC.

The second area is obviously the structured groups. We have a presence of Hamas, Hizbollah, the Egyptian Al-G terrorist groups in the United States. So that is also a concern of the FBI and law enforcement.

The third is—and we have already mentioned, you have already mentioned this this morning, I think Senator Feinstein did—about the students within the United States. We have a large population of students, not only the ones you mentioned, Iran, Iraq, Syria, et cetera, who are studying the hard sciences, but they are here, they switch schools, they study, et cetera, and we spend a lot of time tracking that and trying to determine exactly what is going on with that.

Then the third group that we talk about as a threat in the United States is the loosely affiliated groups, which we have already discussed, and I won't go back over that.

The third area that I mentioned in the introduction is what the FBI response has been since the World Trade Center, and there have been six specific ways that we have responded since that period of time. A lot has to do with funding by the Congress, which we are very appreciative of, and I will mention some of those briefly.

The first is through the foresight of Congress and the executive branch—and it has been mentioned previously this morning—the Anti-Terrorism and Effective Death Penalty Act of 1996. There were many provisions in that that assisted us, but one I would like to point out is section 302, which was the designation of foreign terrorist organizations in the United States certified by the Secretary of State in conjunction with the Attorney General and the Secretary of Treasury. As you well know, on October 8, 1997, 30 terrorist organizations were certified, and of those provisions for the certification is our ability to cease fundraising of those terrorist organizations in the United States.

I would like to point out, though, that these are very difficult and time-consuming, resource-consuming matters if you start looking at the funding aspects of terrorist organizations. Certainly we are going forward with that.

In addition to that, as you have heard, in the Manila air case and in the World Trade Center and the blind sheik investigations, these are not necessarily high-cost, high-dollar operations that create and cause a lot of money. We do know that Ramzi Yousef was not able to get a larger bomb that he wanted to because he ran out of funds, but we are not talking about hundreds of thousands of dollars to finance these acts of terrorism, as seen in the Oklahoma City bombing, for instance, and even in the World Trade and the Manila air case.

The second FBI response since the World Trade Center which we have been fortunate enough to receive additional funds from Congress is that we created a counterterrorism center within the FBI, which opened in 1996, and within that counterterrorism center, we draw in the cooperation of, at present, 18 Federal agencies that are

physically located within the FBI headquarters and within the counterterrorism center. Within my section of the International Terrorism Section, we have representatives from most—well, of the 18, we have across-the-board representation of Federal agencies. My colleagues from INS, Secret Service, DIA, across the board without naming every organization, that work closely with us, that tie in information, particularly in areas where we are always very focused upon criminal violations and obtaining evidence and obtaining witnesses. We have a representative there from DIA who is very much interested in obtaining information about force protection, and things that come up on our scope in the FBI as it pertains to force protection that we don't necessarily pick up on. We have a DIA representative right there that is able to see that material and says, oh, this is rather important for the military, we need to get that out. So that is a tremendous plus.

I do want to talk about our close ties not only with the Federal agencies within the counterterrorism system but our close ties now with the Central Intelligence Agency. We work very closely with the counterterrorism center out at Langley. We exchange information on a daily basis. They are probably my closest working partner within the intelligence community about sharing information for obvious reasons that I won't go into. So we have closed the loop on that, and if you hear stories about the FBI, particularly in the area of counterterrorism, not working together with the CIA, I can tell you in the area of international terrorism that is not the case, because we have closed the loop on that and we have brought the forces to bear not only in the United States as it pertains to information picked up outside the country, but information that is picked up within the country through FBI investigations and through our joint terrorism task force. We funnel back to make sure if it is a direct threat against American interest or to friendly third countries that would get that information out. So that has been of tremendous value since the World Trade Center, our continuing progression of cooperation with the agency.

The third area since the World Trade Center bombing that the FBI has responded to is we have expanded our threat warning system. I won't go into a long, detailed explanation about that, but we have the capability of expanding that and immediately notifying 35 Federal agencies simultaneously of any type of threat within the United States. That also goes out to our legal attaches' offices throughout the world and to our field offices. So that has been a tremendous plus.

The second area under threat warning is we have the capability to send out unclassified threat warning information to all State and local law enforcement agencies in the United States, and we send that out, what we call the NLET system. If you really want to know what that stands for, that stands for the National Law Enforcement Telecommunications System. So we can, through the section, send out a threat that will go to every law enforcement official, department, State and local, within the United States.

Then continuing the expansion of the threat warning system is we have the corporate method to notify 25,000 U.S. corporations if the time or need arises through an Internet system that we have

set up. So those are another area within the threat warning system.

The fourth area that we have done, and rather quickly, through congressional additional fundings, is we have been able to expand our legal programs. This has been very beneficial to us. We now have 33 in place. We are requesting some additional locations to be opened, and I am sure that will be open for discussion with Members of Congress. Very beneficial to us, especially in the area of counterterrorism, especially in areas that we need to be, in Pakistan, or we need to be in Delhi, or we need to be in the Middle East, and in those areas of the country, and we need not to try to infringe upon anyone else's rights or with the agency about collection of foreign intelligence, but we need to be there if U.S. citizens are attacked or if we have another terrorist incident in the United States to be able to collect evidence, information, as it pertains to those crimes. That is a very positive thing that we have done since the World Trade Center.

The fifth thing is the expansion of our joint terrorism task forces. We now have 16 joint terrorism task forces throughout the United States located within our field offices. I will just briefly mention two that have already been mentioned—well, one particularly, the New York Joint Terrorism Task Force conducted the World Trade Center and the Sheik Rahman trial on trying to blow up the monuments in New York City. If you heard those individuals talk, they are exactly right. That is a meshing of Federal agencies as well as State and local, you know, avoiding the constant—or not constant, the possibility of a turf war where you work together on a daily basis, you show up, you know how to proceed. The World Trade Center is an excellent example.

The other one that is an excellent example is, July 1997, the prevention of the subway bombing that was potentially to occur in Brooklyn where the individual has already been discussed. So that is the fifth area.

The sixth area—and I will briefly mention this—is our increased effort in the area of proliferation of chemical, biological, and nuclear materials. At the request of the AG, which Congress funded, we received an increase of 175 agents to work in the area of what we call weapons of mass destruction. It has been mentioned here—I will confirm that—that the caseload has tripled since 1996. What we had going in 1996 is tripled in 1997. I think one of the questions was the types of those investigations. I would like to say those are all classified cases. We would be happy to discuss some of those that are not ongoing criminal matters at this time in a closed hearing.

In addition to that, the sarin gas attack in Tokyo, as well as the incident most recently in Las Vegas, has certainly reinforced our desire and efforts in the area of weapons of mass destruction. It was pointed out that this is no longer just hearsay or it could potentially happen, especially the Tokyo attack. So what we have done on that is we have provided first-responder training. We work closely with the five other Government agencies involved in this: Department of Defense, DOE, Public Health Service, EPA, and FEMA. Through continued funding by the Congress, this is established, and we are well down the road and doing better in that area

of first responders and notification and the procedures to be used in case there is ever an attack.

The last area that I mentioned was future needs. What do we need in the future to do a better job? The first issue, which is in the prepared statement and probably is too detailed of a subject to talk about here, I will just quickly mention this in passing. It is the encryption problem. That is a problem. It needs to get fixed. It needs to get fixed sooner rather than later. It does impact upon our ability to conduct terrorism investigation. It will impact and has impacted upon the drug-trafficking cases, the organized crime cases. And I know there is a balance here that has to be struck between public safety and interest of law enforcement.

We urge that that discussion and those procedures go forward. We need to have this problem fixed. In support of that, the current proposal by the House Permanent Select Committee on Intelligence feels like, we feel like that meets our needs. We urge you to take a look at that. But we would like to see if we could get that fixed.

In conclusion, I would like to say certainly the World Trade Center bombing was a watershed event. It was not—after the initial burst, it was not for the American public to run scared, go behind closed doors, and say terrorists are at our doors. What we have learned from that and what methods we have applied to increase funding by Congress and increase personnel and joint cooperation with our fellow law enforcement partners, we have moved forward. And I can tell you that we are in a much better position today to attack the terrorist problem and to respond to a situation like that than we were 5 years ago.

As the United States is the only major power left in the world, we will always have individuals who feel powerless, who cannot do—or change the foreign policy of the United States, but they can certainly plan to take terrorist actions against U.S. citizens, U.S. interests abroad, and hopefully we have enough trip wires out there that we can prevent those.

Senator Kyl, that completes my statement. I look forward to answering any questions.

[The prepared statement of Mr. Watson follows:]

PREPARED STATEMENT OF DALE L. WATSON

FOREIGN TERRORISTS IN AMERICA: FIVE YEARS AFTER THE WORLD TRADE CENTER

Good morning, Chairman Kyl and members of the subcommittee. I am pleased to participate in this panel as we assess the international terrorist threat confronting the United States five years after the bombing of the World Trade Center.

For many of us in this room, the threat of international terrorism was literally brought home by the World Trade Center bombing on February 26, 1993. Much has changed in the world since that event. In many ways, the world has become even more dangerous for Americans. But in the aftermath of the World Trade Center bombing and the attack on the Murrah Federal Center building in Oklahoma City, the United States Government has adopted measures to enhance its response to terrorism. These efforts have helped to restore a sense of security Americans felt before the attack on the World Trade Center. Although we should not allow ourselves to be lulled into a false sense of security or underestimate the nature of the threat that confronts us, I believe it is important to note that in the five years since the Trade Center bombing, no significant act of foreign-directed terrorism has occurred on American soil.

This morning, I would like to very briefly discuss some things we have learned in the past five years. Then, I will elaborate on the international terrorist threat currently confronting the United States. I will close by discussing the FBI's response

to this threat, and steps that could be taken to further enhance our response to the challenges international terrorism pose to the United States.

Lessons learned

We have learned several important lessons since the World Trade Center bombing. I'll focus here on three broad trends we have identified.

One of these is that loosely affiliated groups of like-minded extremists—like the one assembled by Ramzi Yousef for the plot against the World Trade Center—pose a real and significant threat to our security and a particular challenge to law enforcement. These transnational groups often form on a temporary, ad hoc basis. Their memberships are generally unknown to law enforcement. These groups are not always beholden to, or dependent on, traditional State sponsors, such as Iraq, Iran, or Sudan for support. They are free to operate on their own terms and exploit the mobility that technology and a fluid command structure offers.

However, this flexibility and self-reliance can be a double edged sword. After his capture in 1995, Ramzi Yousef conceded to investigators that a lack of funding forced his group's hand in plotting the destruction of the World Trade Center. Running short of money, the plotters could not assemble a bomb as large as they had originally intended. The timing of the attack was also rushed by a lack of finances. Incredibly, the plotters' desire to recoup the deposit fee for the rental truck used to transport the bomb helped lead investigators to them. As I will discuss in a moment, efforts to disrupt the fund-raising operations of organizations that finance terrorism may prove especially disruptive to the activities of these loosely affiliated terrorist groups.

During the past five years, we also have found that an increasing number of terrorist organizations possess a command of technology and have the expertise to use it for fund-raising, recruiting, and even operational planning. Several organizations with significant terrorist components maintain a regular presence on the Internet. For example, Hamas, Hizballah, and at least one Latin American group maintain their own homepages that include propaganda material and recruiting information.

During the trial of Shaykh Omar Abdel Rahman, on charges relating to the foiled plots to assassinate the President of Egypt and bomb major landmarks throughout New York, supporters used the Internet to solicit funds for his defense. These and more operational uses of technology, that I am not at liberty to comment upon here, clearly demonstrate that today's terrorists feel comfortable using advanced technology to support their destructive ambitions.

The misuse of technology underscores the wide range of tools and capabilities available to modern terrorists. The exploits of Ramzi Yousef, from the time he executed the World Trade Center bombing in February 1993 until his capture in Pakistan in February 1995, illustrate the integral role technology plays in international terrorism and the role it can play in assisting investigators to track down terrorists.

Within days of the explosion at the World Trade Center that left six innocent victims dead and approximately one thousand wounded, Ramzi Yousef made his way to Pakistan. Eventually, he and several associates moved on to the Philippines and rented a unit at the Dona Josefa apartment complex in Manila, which they used as a safehouse and an improvised bomb factory. On December 11, 1994, Yousef placed a small explosive on a Philippines airliner enroute to Tokyo via Cebu. A Japanese businessman was killed when the device exploded under his seat. Subsequent investigation determined that the plotters has used the device to test a new bomb design. As we later discovered, Yousef was planning to place more powerful devices on U.S. airliners.

While mixing chemicals at the Dona, Josefa apartment on January 7, 1995, a fire broke out forcing Yousef and two co-conspirators, Abdel Hakim Murad and Wali Khan, to flee into the street. Concerned that he had left his laptop computer in the apartment, Yousef sent Murad back into the unit to retrieve it. Philippines police arrested Abdel Hakim Murad and were able to recover the computer intact. Wali Khan was arrested days later. Yousef successfully fled the Philippines and ultimately made his way back to Pakistan.

By decrypting Yousef's computer files, investigators uncovered the details of a plot to destroy numerous U.S. air carriers in a simultaneous operation. Codenamed "Bojinka," The plot involved using a timing device made from an altered databank watch. Flight schedules and a decrypted letter found on the compute indicate that five participants were to simultaneously plant devices on flights to the United States. After the bombings, four of the participants were to return to Karachi, Pakistan. The fifth was to return to Doha, Qatar.

Meanwhile, back in Pakistan, Yousef's luck finally was running out. A plot to kidnap and kill U.S. diplomats and foreign officials in Pakistan was foiled by a cooperating witness who revealed the plan to U.S. embassy personnel. On February 7,

1995, The FBI arrested Yousef in Islamabad and rendered him back to the United States.

Approximately two months later, Abdel Hakim Murad was rendered from the Philippines after his arrest at the Dona Josefa apartments. In December, Wali Khan also was rendered to the United States. Eventually, Khan and Murad were convicted and sentenced to life in prison for their participation in the plot to bomb U.S. airliners. Yousef has now been convicted of both the plot to bomb airliners and for masterminding the bombing of the World Trade Center.

If we doubt the level of commitment that drives rogue terrorists to strike at their perceived enemies, just weeks ago Ramzi Yousef provided a glimpse into the mindset of a terrorist. When sentenced to life in Federal prison without possibility of parole, Yousef boasted of his destructive exploits, saying, "Yes, I am a terrorist and proud of it."

As this case illustrates, the threat of international terrorism demands continued vigilance. Today's terrorists have learned from the successes and mistakes of terrorists that went before them. The terrorists of tomorrow will have an even more dizzying array of weapons and technologies available to them.

One of the more challenging aspects of this threat stems from the third aspect of modern international terrorism I would like to discuss. That is the inter-related nature of certain terrorist incidents. As recent events have shown, this "web of terrorism" perpetuates violence upon violence and poses a particular challenge to nations like the United States that take a firm stand against terrorism.

There is an indication that the November 1997 attack on foreign tourists in Luxor, Egypt, was apparently an example of this type of interwoven violence. The ambush appears to have been carried out in an attempt to pressure the United States into releasing Shaykh Rahman, who is serving a life sentence in Federal prison for his part in planning attacks against the President of Egypt and several sites in New York City.

Since his imprisonment in 1995, followers of the Shaykh have issued several threats warning of violence in retaliation for his continued imprisonment. The FBI continues to monitor these threats very closely.

Terrorism is perpetrated by individuals with a strong commitment to the causes in which they believe. An action in one location often brings reaction in another, although not necessarily a coordinated one. The web-like nature of terrorism underscores the need for vigilance in counteracting terrorist groups. Unfortunately, American successes can spur reprisals. As the United States develops a stronger investigative and prosecutorial response to terrorism, we may witness more attempts at reprisals both here and abroad.

Presence of foreign terrorist groups in the United States

Today, due to the foresight of the Congress and Executive Branch in the aftermath of the World Trade Center and Oklahoma City Bombings, the FBI has an enhanced capability to track the activities of foreign terrorist organizations maintaining a presence in the United States.

There are obvious operational considerations that limit what we can discuss in an open forum about the presence of terrorist groups in the United States. I can tell you that the FBI has identified a significant and growing organizational presence here.

Palestinian Hamas, Iranian-backed Hizballah, and Egyptian-based Al-Gama' at Al Islamiyya each has established an active presence in the United States. The activities of the American wings of these organizations generally revolve around fundraising and low-level intelligence gathering.

In addition, there are still significant numbers of Iranian students attending U.S. Universities and technical institutions. In 1997, 419 student visas were issued to new and returning Iranian students. A significant number of these individuals are hardcore members of the Pro-Iranian student organization known as the Anjoman Islamie, which is comprised almost exclusively of fanatical, anti-American, Iranian Shi'ite Muslims. The Iranian Government relies heavily on these students studying in the United States for low-level intelligence and technical expertise. However, the Anjoman Islamie also provides a significant resource base which allows the Government of Iran to maintain the capability to mount operations against the United States, if it so decided.

Response to terrorism

In the face of these potential threats, the U.S. Government has significantly enhanced its response to International Terrorism in the five years since the World Trade Center Bombing. There are five traditional offensive ways through which the Government fights terrorism: Diplomacy, sanctions, covert operations, military op-

tions, and law enforcement action. Some of the measures in place span more than one of these areas. For example, the Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996 includes both diplomatic and law enforcement provisions.

Enactment of the AEDPA has enhanced the ability of the U.S. Government to respond to terrorist threats. As I mentioned, this act includes a wide range of counterterrorism provisions. For example, section 302 of the act authorizes the Secretary of State, in conjunction with the Attorney General and Secretary of the Treasury, to designate as foreign terrorist organizations (FTOs) groups that meet certain specified criteria. This designation means that funds raised in the United States by FTOs can be blocked by US financial institutions.

The act provides law enforcement with a potentially powerful tool among other things, it gives us a means to disrupt the ability of terrorist organizations to fund their destructive activities.

However, it would be overly optimistic to consider this act a panacea to the problem of international terrorism. Financial investigations are by their nature personnel-intensive and time-consuming. Investigations into the financial operations of clandestine organizations on the shadowy fringes of transnational politics can be particularly complex. It will take time for the AEDPA to have significant impact on the 30 groups designated as foreign terrorist organizations.

I encourage the Congress to give the AEDPA time to work. As with many measures of this type, its most powerful impact may stem from its deterrent effect. As investigators build successful cases and prosecutors develop sound prosecutorial strategies to enforce the provisions of the AEDPA, targeted groups may decide that fund-raising activities in the United States are not worth the risks.

As you are aware, recent congressional appropriations have helped strengthen and expand the FBI's counterterrorism capabilities. To enhance its mission, the FBI centralized many specialized operational and analytical functions in the domestic counterterrorism center.

Established in 1996, the FBI Counterterrorism Center combats terrorism on three fronts: International terrorism operations both within the United States and in support of extraterritorial investigations, domestic terrorism operations, and countermeasures relating to both international and domestic terrorism.

The FBI Counterterrorism Center represents a new direction in the FBI's response to terrorism. Eighteen Federal agencies maintain a regular presence in the center and participate in its daily operations. These agencies include the Central Intelligence Agency, the Defense Intelligence Agency, and the United States Secret Service, among others. This multi-agency arrangement provides an unprecedented opportunity for information sharing and real-time intelligence analysis.

This sense of cooperation also has led to other important changes. During the past several years, the FBI and CIA have developed a closer working relationship. This has strengthened the ability of each agency to respond to terrorist threats, and has improved the ability of the U.S. Government to respond to terrorist attacks that do occur.

Because warning is critical to the prevention of terrorist acts, the FBI also is in the process of expanding the terrorist threat warning system first implemented in 1989. The system reaches all aspects of the law enforcement and intelligence communities. Currently, more than 35 Federal agencies involved in the U.S. Government's counterterrorism effort receive information via secure teletype through this system. The messages also are transmitted to all 56 FBI field offices and 33 foreign liaison posts.

If threat information requires nationwide unclassified dissemination to all Federal, State, and local law enforcement agencies, the FBI transmits messages via the National Law Enforcement Telecommunications System. In addition, the terrorist threat warning system allows for the dissemination of unclassified terrorism warnings to the U.S. corporate community as well as the public at large, via the Internet, press releases, and press conferences.

The FBI's counterterrorism capabilities also have been enhanced by the expansion of our legal attaché—or legat offices—around the world. These small offices can have a significant impact on the FBI's ability to track terrorist threats and bring investigative resources to bear on cases where quick response is critical. As I've mentioned, the FBI currently has 33 legat offices. Many of these have opened within the past 5 years in areas of the world where identifiable threats to our national interests exist.

We cannot escape the disquieting reality—as evidenced by the World Trade Center bombing—that in the late 20th century, crime and terrorism are carried out on an international scale. The law enforcement response must match the threat. By expanding our first line of defense, we improve the ability of the United States to prevent attacks and respond quickly to those that do occur. Given the nature of the

evolving terrorist threat and the destructive capabilities now available to terrorists, the American people deserve nothing less.

Terrorism is increasingly an indiscriminate crime. The World Trade Center bombers exhibited little concern about who their victims would be. Their primary interest seemed simply to ensure a high number of casualties. Likewise, though Shaykh Omar Abdel Rahman and his plotters targeted specific facilities, such as the U.N. headquarters and a federal building housing the FBI's New York City field office—in addition to other sites throughout the city—they evidently gave little thought to their potential victims. Again, the nature of the planned attacks indicate that the primary goal was to cause as much destruction and as many casualties as possible.

How a free society responds to such threats is a question that the Congress has addressed in years past and undoubtedly will continue to confront for years to come. During the past five years, the United States has made great strides in strengthening its counterterrorism capabilities. But, there is more to be done.

Future needs

I would like to close by talking briefly about steps we can take to further strengthen our abilities to prevent and investigate terrorist activity.

One of the most important of these steps involves the adoption of a balanced public policy on encryption. Court authorized electronic surveillance (wiretaps) and the execution of lawful search and seizure warrants are two of the most critically important law enforcement investigative techniques used to fight crime and prevent terrorism. Law enforcement remains in unanimous agreement that the continued widespread availability and ever increasing use of strong, non-recoverable encryption products will soon nullify our effective use of these important investigative techniques and will ultimately devastate our ability to effectively fight crime, prevent acts of terrorism and protect the public safety and national security of the United States.

Most encryption products manufactured today for use by the general public are non-recoverable. This means that they do not include features that provide for timely law enforcement access to the plaintext of encrypted criminally related and lawfully seized communications and computer files. Other than some form of a key-recovery system or feature, there is no viable technical solution to this problem for law enforcement. Non-recoverable or uncrackable encryption is now and with ever increasing regularity, allowing violent criminals and terrorists to communicate about their criminal intentions with impunity and to store evidence of their crimes on computer, impervious to lawful search and seizure.

In many of our important investigations today, effective law enforcement is being frustrated by criminals and terrorists using commercially available, non-recoverable encryption products. Examples include the Aldrich Ames spy case; the Ramzi Yousef international terrorist case, which involved a plot to blow up 11 U.S. commercial aircraft in the Far East; and numerous international drug trafficking investigations, to include those along the Southwest border of the United States.

It is for this reason that law enforcement is urgently calling for our Nation's policy makers to adopt a balanced public policy on encryption. Several bills have been introduced in Congress that address certain aspects of the encryption issue. Unfortunately, most of these legislative proposals, with the exception of a proposal adopted by the House Permanent Select Committee on Intelligence, fail to adequately address law enforcement's needs in this area and would promote the widespread availability and use of non-recoverable encryption products regardless of the adverse impact on public safety, effective law enforcement, and national security.

Law enforcement believes that we are now at a historical crossroad on this issue. If public policy makers act wisely, the safety of all Americans will be enhanced for decades to come. But if narrow interests prevail, law enforcement will soon be unable to provide the level of protection that the American people properly expect and deserve. We do not think it is too late to deal effectively with this issue and I would encourage the subcommittee to look closely at the action taken by the House Permanent Select Committee on Intelligence in their efforts to adopt a balanced encryption policy.

Another area of vital interest to the FBI is the proliferation of chemical, biological, and nuclear materials within the criminal and terrorist communities. These weapons of mass destruction represent perhaps the most serious potential threat facing the United States today. In response to this threat, the FBI has significantly expanded its investigative capabilities in this area.

Prior to the World Trade Center and Oklahoma, City bombings, the FBI had dedicated a very small staff to weapons of mass destruction (WMD) investigations. Those two investigations, which required thousands of FBI agent and support personnel, prompted the Attorney General to request an increase of 175 field agents

to the WMD program, which the Congress subsequently supported. To coordinate the activities of these personnel, the FBI has created two WMD units at FBI headquarters: One to address operations, cases, and threats, which tripled in 1997 over 1996 figures, and another to implement our countermeasures program, which coordinates exercises, deployments, and the first responder training initiative.

A successful WMD terrorist attack could prove catastrophic and would require a unified response from various agencies at the Federal, State, and local levels. To improve response capabilities on a national scale, the FBI is working closely with five other Federal agencies—the Department of Defense, the Department of Energy, the Public Health Service, the Environmental Protection Agency, and the Federal Emergency Management Agency—that make up the nucleus of the response to WMD incidents. The FBI also maintains extensive liaison with members of the intelligence community, including the CIA, the National Security Agency, and others involved in WMD and counterproliferation matters.

As the 1995 Sarin attack on the Tokyo subways demonstrated, unconventional weapons are no longer purely the domains of military arsenals. In the hands of terrorists, they can pose a grave risk to our citizens and our Nation's interests. Again, Congress and the Executive branch should be commended for their foresight in responding to this threat. Given the potentially grave consequences of inaction, I encourage continued support of the FBI's initiative to confront the WMD threat through proactive investigations and cross-agency training.

Cooperation among law enforcement and intelligence agencies at all levels represents an important component of a comprehensive response to terrorism. This cooperation assumes its most tangible operational form in the joint terrorism task forces that exist in 16 cities across the Nation. These task forces are particularly well-suited to responding to international terrorism because they combine the international investigative resources of the FBI and other Federal agencies with the street-level expertise of local law enforcement agencies. This cop-to-cop cooperation has proven highly successful in preventing several potential terrorist attacks. Perhaps the most notable cases have come from New York City, where the city's joint terrorism task force has been instrumental in thwarting two high-profile international terrorism Plots—the series of bombings planned by Shaykh Rahman in 1993, and the July 1997 attempted bombing of the New York City Subway.

These plots were prevented. Today, the conspirators who planned them either sit in federal prisons, or are awaiting trial thanks, in large part, to the comprehensive investigative work performed by the joint terrorism task force.

Given the success of the joint terrorism task force concept, the FBI plans to develop additional task forces in cities around the country. By integrating the investigative abilities of the FBI and local Law Enforcement Agencies these task forces represent an effective response to the threats posed to individual American communities by international terrorists.

Conclusion

The bombing of the World Trade Center was a watershed event. It taught us in a painful but unmistakable way that international terrorism can and does occur in the United States. This case also demonstrated the ability of American intelligence and Law enforcement agencies to track and apprehend the perpetrators of such atrocities. Today, Ramzi Yousef and most of his co-plotters are sitting in Federal prison, deprived of the freedom they so recklessly exploited. The World Trade Center bombing heralded a new ERA—But not one of increased numbers of Foreign-Directed Terrorist Acts in the United States. Rather, it has led to a renewed and enhanced focus on responding to the international terrorist threat confronting the American people.

To adequately understand the International Terrorist threat currently facing the United States, we must appreciate the unique position America occupies in the World today. As the sole super power, the policies of the United States are viewed with intense interest by nations around the world. To individuals and groups who feel powerless to effect their own destinies through legal means, the breadth of influence and power wielded by the United States represents a stunning contrast—and an attractive target for their frustrations.

The FBI has developed a broad-based response to the many external threats that confront the United States today. Due to the measures I've discussed and several other initiatives, we are much better prepared to address the international terrorist threat than we were five years ago. With the continued support of Congress and the Executive branch, and in cooperation with the Intelligence and Law Enforcement Communities, we will continue to enhance our ability to protect the American people from the treat of international terrorism.

Senator KYL. Thank you very much, Mr. Watson.

Our next witness is Walter Cadman, the counterterrorism coordinator, field operations of INS. Mr. Cadman will discuss the unlawful practices of foreign terrorists in penetrating U.S. borders, including alien smuggling and document fraud. One important aspect of Mr. Cadman's testimony will be an update on the current status—or nonstatus—of the student visa tracking program, which was mandated to begin in January of this year, a primary purpose of which is to provide law enforcement with an important counterterrorism tool to track aliens who enter the United States on student visas who may have a terrorist or criminal agenda.

Mr. Cadman, welcome, and thank you.

STATEMENT OF WALTER D. CADMAN

Mr. CADMAN. Good morning, Mr. Chairman, and good morning, Senator Feinstein. I appreciate the opportunity to share with you INS' role in preventing terrorist activities inside the United States. Like Mr. Watson, I have submitted a detailed statement for the record, and what I will provide to you now is a relatively brief summary of those remarks.

I would like to outline for you the tools that INS has at its disposal to combat terrorism, the challenges we face, and the results of our efforts to date.

INS' front-line effort in preventing terrorists from getting into the United States is at our borders and ports. We play an increasing but less obvious role in detaining and removing aliens with terrorist ties once they are already here.

Through legislation passed by Congress, INS was given specific new authorities to prosecute, exclude, arrest, and remove aliens involved in terrorism. These laws have substantially enhanced INS' authority to target aliens supporting or directly involved in terrorist activities. The new laws also created the Alien Terrorist Removal Court in which the Government may use classified information to prove that an alien is deportable under the terrorist charge. These new tools clarified the congressional expectation that INS must play a larger and increasingly critical role in counterterrorism.

To this end, INS has established a new Office of Counterterrorism whose purpose is to coordinate counterterrorism efforts within INS and between INS and other law enforcement and intelligence agencies.

In our efforts to screen the nearly 500 million persons who arrive yearly at over 200 ports of entry, we are obliged to balance the twin goals of facilitating legitimate travel and providing comprehensive enforcement. At U.S. entry ports in 1996, INS inspectors identified 622,749 inadmissible aliens. Between the ports, we have been able to substantially beef up prevention efforts at our borderline, in defense against the illegal entry of aliens and against terrorists seeking to enter the country surreptitiously.

I cannot vouchsafe that our borders are sealed, but I can state that the window of opportunity for such entries is now more limited than it has ever been.

Alien smuggling is a growing multibillion-dollar business that some authorities describe as the crime of the 21st century. The fees

for just one migrant can range as high as \$50,000. Terrorist organizations sometimes use established crime syndicates to smuggle their leaders and members. They can also purchase the services of the very best counterfeiters and lithographers. Terrorists use false documents to bypass the visa process and to avoid scrutiny of their identities, their affiliations, or their right to enter the United States.

INS' Operation Global Reach was launched to combat migrant trafficking by crime syndicates and terrorist organizations, among others, in June 1997. To complement overseas enforcement efforts, INS is now spending approximately \$18 million on our carrier consultant program to train airline and other carrier personnel to identify bogus or altered documents.

Congressional funds have helped improve INS' computer infrastructure and databases. These databases include the National Automated Immigration Lookout System, known as NAILS, and its component, the TIPOFF system, which is a classified database of individuals identified as involved in terrorism, which is run by the State Department. For instance, Mousa Mohammed Abu Marzook was intercepted at JFK International Airport as the result of a lookout based on his leadership of a terrorist organization. Marzook was excluded and deported from the United States on May 5, 1997.

In other programs, the Visa Waiver Pilot Program, which began in 1988, permits nationals from 26 designated countries to visit the United States for up to 90 days without obtaining a non-immigrant visa. In 1996, over 12 million visitors entered under the VWPP.

Since its inception, the VWPP has been debated because of its dual nature of facilitation and enforcement. On the facilitative side, the VWPP encourages the entry of millions of visitors to the United States every year, providing significant economic benefits to the United States. On the enforcement side, the VWPP has contributed to the general problem of document fraud encountered by immigration officers. Document fraud in the VWPP will continue to be problematic as long as there are security concerns about the integrity of the documents produced and the security of the issuance process with those documents.

The World Trade Center bombing was a wake-up call to many in law enforcement. INS has increased our ability to prevent illegal entry at and between ports of entry and, by doing so have narrowed the window of opportunity for terrorists. At the same time, we have also expanded our capacities to respond to the terrorists' challenge within our borders. Just as Al Capone was ultimately jailed for tax evasion and not for any organized crime charges, INS violations help fill out the Federal arsenal of tools to combat terrorism.

Terrorist group members and their associates almost of necessity must violate U.S. immigration and nationality laws to effect entry into—or to remain in—our country; this is their Achilles heel. They misrepresent themselves in applying for visas or other benefits; they use false identity documents; they submit frivolous asylum applications; and they engage in sham marriages—to name a few violations.

The nearly 2,000 INS special agents nationwide, working very closely with the FBI and other agencies, for instance, through the

joint terrorism task forces, conduct investigations into these matters. I would like to give the subcommittee a few examples.

Just a month ago, after being confronted with his membership in a State Department-designated terrorist organization, a member of the Mujahedeen-e-Khalq departed the United States rather than face detention and removal proceedings.

About 6 weeks ago, an East European hijacker who had entered the United States by concealing his conviction for air piracy was removed to his country of nationality.

Last August, two brothers believed to be members of a terrorist organization were arrested and charged with engaging in marriage fraud to obtain their green cards. Their cases are still pending in court.

Attached to my written testimony for the record, I have provided the subcommittee with additional highlights of recent cases.

The most effective means in combating terrorism within the United States is through a multiagency approach. In fiscal year 1997, INS deployed 24 full-time agents and seven support positions to the various JTTF's. Other agents are assigned as needed. INS has requested 15 additional special agent positions and 1 additional support position for our fiscal year 1999 budget.

In addition, INS has assigned three special agents and one intelligence analyst to the FBI's International Terrorism Section at their headquarters, and two INS special agents are assigned full-time to the CIA's Counterterrorism Center.

Among the challenges we face:

INS needs improvement in the quality and timeliness of the information we enter into our databases. We are sensitive to the concerns expressed by Congress and others, particularly in two areas: The entry of individuals from countries designated as state sponsors or supporters of terrorism, and nonimmigrants who come to the United States to study or engage in sensitive technologies. We believe that the experience INS has gained in implementing quality assurance procedures elsewhere will be useful in improving the information we gather and input in these areas.

The second area needing improvement is with regard to the information exchange protocols. These need to be strengthened between INS and other agencies that possess information on foreign terrorists. This is critical for three reasons: we need it to enhance the reliability of our databases; we need it to ensure that INS has the evidence necessary to sustain charges against terrorists based on other agency information; and, third, we need it to avoid granting entry to or bestowing benefits upon alien terrorists because we don't know about the information collected and maintained by other agencies.

Statistics. Analysis of several of our indices reflects that INS has removed 98 aliens on terrorism charges from fiscal year 1995 through the first quarter of fiscal year 1998. This is not the full picture because INS frequently charges individuals believed to be terrorists or aligned with terrorist organizations on other charges. Regrettably, our statistical systems don't provide a ready manner of capturing that data.

Anecdotal information confirms that the INS has removed 12 terrorists in addition to the 98 I just made reference to, and, finally, we have approximately 48 cases currently pending.

To recap, the experts make clear that terrorism will continue to be a threat to the safety and security of the United States for the foreseeable future. INS has come a long way in honing our counterterrorism efforts in cooperation with, and as a partner of, the other Federal agencies. We acknowledge our need to improve our infrastructure in order to overcome the challenges we face, and we are committed to systematic strengthening of our effectiveness in this area.

I will do my best, when the moment comes, to respond to any questions you have, including those relating particularly to students.

[The prepared statement of Mr. Cadman follows:]

PREPARED STATEMENT OF WALTER D. CADMAN

Good morning, Mr. Chairman and distinguished members of the Subcommittee. I appreciate this opportunity to share with you the crucial role that the Immigration and Naturalization Service (INS) plays in preventing terrorists' activities inside the United States. INS's front-line effort in preventing terrorists from getting into the United States is at our land and sea borders and at airports. Although not nearly as obvious to the public as our border enforcement role, we are playing an increasingly significant role in efforts to identify, detain, and remove individuals once they are already here.

As you know, the bombing of the World Trade Center was a wake-up call to the law enforcement and intelligence community. INS moved from working in an ad-hoc manner with other members of the law enforcement and intelligence communities to a more formalized partnership. INS is invaluable to the government's efforts against international terrorism and foreign terrorists who attempt to cross or are found within our borders. INS is the government agency responsible for controlling the entry of aliens into the United States, and detaining and removing aliens who have entered contrary to our laws. With this substantial authority, we can help our partners in the counterterrorism battle to prevent, prosecute, remove and keep out these threats to the nation.

INS was given specific new authorities through legislation passed by Congress in the last several years. For example, the Immigration Act of 1990 gave INS authority to exclude, arrest and deport aliens involved in a variety of terrorist activities. The INS counterterrorism authority again was enhanced in 1996 through enactment of the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Both laws amended the Immigration and Nationality Act (INA) to provide specific criminal and administrative removal provisions directly concerning alien terrorists and their supporters. These new tools also clarified the Congressional expectation that INS must play a larger and increasingly critical role in counterterrorism activities.

To this end, INS has established a new office within the Services specifically for Counterterrorism. The purpose is to coordinate counterterrorism efforts within INS, and between INS and other law enforcement agencies and the intelligence community. In that capacity, we plan to: coordinate the Service's investigative efforts; oversee the leads we are given; and serve as an advocate for officers in the field to ensure they have access to the tools and information they need to do their jobs. And finally, it is our intention to ensure that this office makes clear to other agencies our authorities and capacities so that they more fully utilize our expertise.

Today I will outline for you the tools we have at our disposal to address this critical task and the tools we need, as well as give an overview of the results of our efforts to date. You will hear much about our heightened awareness and more effective programs as a part of the larger Federal efforts. But, I must add two cautionary notes: first, we recognize that the United States, its citizens, businesses and endeavors are at increasing risk, worldwide. Terrorism experts predict that the tide has not yet turned. Second, there is much yet to be done by the INS, and we are aware of this. We are committed to further and systematic strengthening of INS's effectiveness in the counterterrorism arena.

One of the dilemmas for this agency is that, as a country, we advocate the free and open exchange of ideas, commodities, and, within the context of law, peoples. In our efforts to screen the nearly 500 million persons who arrive yearly at over 200 ports of entry, we are obliged to balance the twin goals of facilitating legitimate travel and comprehensive enforcement. It sometimes occurs that, despite our best efforts—and those of many other Federal inspectional and enforcement agencies—individuals enter who are later revealed to be terrorists or otherwise inimical to the national security or public safety. We are working diligently with the FBI and other agencies, through Joint Terrorism Task Forces (JTTFs) and similar programs, to develop a post-entry backstop in the investigative arena, so that these individuals may be quickly identified and preempted through arrest and prosecution, or through removal from the United States as quickly as possible.

Let me turn to border management issues. In the last several years, I believe our prevention efforts have been significantly strengthened at our first line of defense against the illegal entry of aliens and against terrorists who might consider entering the country surreptitiously at the borders themselves.

Of course, I cannot vouchsafe to you that our borders are sealed against any and all attempts at illegal entry. I can, though, state that the window of opportunity for such entries is now more limited than it has ever been in the history of the INS, or indeed, the country.

The dramatic increase in INS personnel, from border patrol agents at the Southwest border to inspectors at our ports, has helped tremendously in apprehending illegal crossers and individuals with fraudulent documents trying to enter the United States.

BORDER MANAGEMENT

For international terrorists to enter the United States from abroad, they must either come into contact with Federal officials controlling the entry of aliens, or actively attempt to avoid them. As a consequence, alien terrorists who enter or attempt to enter the U.S. inevitably come into contact with INS or, by avoiding or deceiving the INS to gain entry, must violate immigration laws.

As you are well aware, both the INS's Inspections and Border Patrol divisions have undergone unprecedented growth nationwide over the past three years. Our goal is to have almost 4,700 Immigration Inspectors and 7,000 Border Patrol Agents on duty by the end of 1998. Added resources including personnel, equipment and technology provided by Congress have enabled us to substantially tighten border enforcement at air, sea and land Ports-of-Entry (POEs), and between the land borders of the United States. The Service's border enforcement goals are clear: deter illegal immigration and alien smuggling; apprehend terrorists, criminal and drug traffickers; and facilitate the entry of bona fide immigrants and nonimmigrants through the ports of entry.

A. Southwest Border: Control of the Southwest border, as you know, remains the top enforcement priority for the INS. The Congress and the Administration continue to work in providing the INS with the resources necessary to support an enforcement strategy that is making a difference now and will continue to do so in the future. This strategy has been highly successful in restoring the rule of law to the most heavily trafficked portions of the Southwest border.

B. U.S.-Canadian Border: The INS, with the tremendous cooperation of Canadian Inspections agencies and the Royal Canadian Mounted Police, is keeping a close watch on our border to the North. Although apprehension figures of illegal entries at the Canadian border are still small when compared to the southwest border, the Canadian border is an alternative gateway for illegal entry to the United States. In 1996, illegal immigrants from 118 countries attempted illegal entry into the United States from Canada.

C. Other U.S. Ports of Entry: As I mentioned earlier in my testimony, INS Officers annually inspect and admit almost 500 million persons. Of those, nearly two-thirds are non-citizens. This number poses a significant challenge for our inspecting officers. Along our nation's borders, Inspectors daily encounter individuals attempting to enter the United States by disguising their true identities with false documentation. However, the INS has stepped up efforts to deter immigration violators of every type and kind at U.S. ports of entry. For instance, in 1996, INS Inspectors identified 622,749 inadmissible aliens.

ALIEN SMUGGLING

The challenges in meeting the multi-faceted alien smuggling threat are large. We must constantly reassess and adjust our enforcement and geographic strategies. The INS is attacking smuggling organizations at all levels in source and transit coun-

tries; at out borders; and within the interior. Priority is given to targeting major smuggling organizations that transport illegal aliens across our international borders. Investigative operations also target use of fraudulent and counterfeit travel documents. These bogus documents are the hallmarks of sophisticated smugglers.

An INS border enforcement efforts make it tougher to enter the United States illegally, increasingly border-crossers are relying on alien smugglers. Alien smuggling reaches far beyond our borders with Mexico and Canada—to the Caribbean, all regions of the globe and deep within the interior of the United States itself. Just one week ago today, Border Patrol Agents and maritime police intercepted a 40' yola in waters of the Mona Pass between Puerto Rico and the Dominican Republic. Among the 48 illegal aliens found aboard the boat were four Pakistanis and two Afghans, who were part of an international smuggling venture.

As part of our border enforcement efforts, the INS is giving priority to locating, arresting, and prosecuting traffickers in human beings, here and abroad. Alien smuggling is a growing, multi-billion dollar global business. Some authorities have described it as "the crime of the twenty-first century." Smugglers daily move thousands of illegal migrants from source countries, through transit countries, to the North American Continent, and within the United States. The fees for just one migrant can range as high as \$50,000—for instance, for Chinese nationals.

Individual terrorists have been known to use established smuggling routes in their attempts to enter the U.S. and to assist the entry of their associates. Gazi Ibrahim ABU MEZER, the alien arrested with pipe bombs in his possession in New York City last year, was apprehended by INS for having made several attempts at illegal entry in the company of others along known smuggling routes in the North-western border between Canada and the United States. Although never conclusively established, he was suspected of involvement in alien smuggling activities by the Royal Canadian Mounted Police.

Terrorist organizations sometimes use established crime syndicates to smuggle, or provide fraudulent travel documents for, their leaders, members and associates. With their infrastructure of support and financing, terrorist organizations can purchase the services of the very best smugglers and lithographers—witness the many travel documents used by the notorious Carlos the Jackal. Terrorist group members arrested by the INS and other law enforcement agencies in the past have revealed that, at some point in their journey to the United States, smuggling syndicates were used, often for the purchase of counterfeit or altered passports and visas. Terrorists use false documents to bypass the necessity of procuring a visa, and thereby avoid overseas scrutiny of their identities, affiliations or right to enter the U.S. by State Department consular officers. Thus, INS efforts to infiltrate and dismantle smuggling syndicates within the U.S. and at our borders aids in the interdiction of terrorists and disruption of their efforts to enter our country whether surreptitiously or by possession of bogus documents.

As is true within our borders, the interdiction of terrorists can also be greatly facilitated abroad, by dismantling migrant smuggling syndicates and disrupting established routes, in both source and transit countries. In June 1997, INS increased its overseas enforcement efforts by opening 13 new offices and assigning more officers to combat migrant trafficking by organized crime syndicates and terrorist organizations in an initiative called Operation Global Reach. In doing so, INS substantially enhanced the number of criminal investigators and intelligence analysts posted overseas to work on deterring migrant trafficking in source and transit countries.

Strengthening and complementing Global Reach is the Carrier Consultant Program, mandated by Section 124 of IIRIRA. This program increases INS's overseas effectiveness in reducing illegal migration to this country by training airline and other carrier personnel to identify inadmissible aliens on the basis of their documents. Pursuant to statute, a minimum of 5 percent of the agency's user fee funding (approximately \$18 million) will be used for training and assistance in the detection of fraudulent documents.

The early indicators are that INS's enlarged overseas presence has enhanced the efforts of foreign governments to stop migrant trafficking within or through their borders. For instance, on February 3, the government of Guinea, West Africa detained 190 Sri Lankan nationals who arrived at the port of Conakry and were awaiting a smuggling vessel to transport them to the United States and Canada. On-site INS personnel, working with the Guinea government, interviewed the Sri Lankans, who claimed to have paid between \$4,000 and \$15,000 in U.S. dollar equivalency, to be smuggled from their homeland. In a joint effort at deterring human trafficking at the global level, the Department of State, INS, and representatives of the Canadian government worked to coordinate the repatriation of these individuals. By agreement with the government of Senegal, on February 10 the smug-

gled aliens were sent to Dakar, for detention in that country pending arrangements by the U.S. and Canada for transportation and repatriation to Sri Lanka.

Organized crime syndicates and international terrorist organizations are known to use alien smuggling operations to support and further their criminal objectives. Alien smuggling operations run by such organizations also provide a ready source of funds and result in criminal money laundering violations. These operations facilitate the movement of criminals and terrorists into the United States, as well as the illegal entry of large numbers of simply undocumented aliens from a variety of different countries.

IMPROVED INFRASTRUCTURE

In addition to new enforcement personnel and offices overseas, in the last several years, INS has improved its computer infrastructure to better support the various lookout databases we rely on to identify individuals suspected or known to have terrorist ties. The Service maintains detailed records on millions of aliens. These records have often proven invaluable to terrorist-related investigations.

A. *The INS Forensic Document Laboratory (FDL)*: The FDL specializes in the forensic examination of travel documents, visas and other identity documents—documents that are critical to the international terrorist. The FDL maintains an expert analytical staff with extensive liaison and cooperative arrangements with the document-issuing authorities of foreign governments. These INS capabilities provide crucial support mechanisms in the U.S. Government's counterterrorism efforts.

B. *National Automated Immigration Lookout System (NAILS)*: An additional tool used by the INS, which is shared with other agencies under specific conditions, is our lookout system and its components. The INS makes a major contribution to the federal enforcement inventory of lookout records and related information through its National Automated Immigration Lookout System (NAILS). We create lookouts for several categories of individuals, including nonimmigrant aliens or lawful permanent residents who may be removable from the United States under provisions of the Immigration and Nationality Act, and also for individuals who are of interest to other agencies.

During primary inspections at U.S. POEs, officers access NAILS and other databases through the Interagency Border Inspection System, or IBIS. Government agencies contributing to IBIS share border security and related law enforcement information, enabling Inspectors to access their databases through the IBIS platform. Thus, Immigration Inspectors have instant access to a broad range of information that can be used to identify and process individuals who may be removable from the United States or subject to some other enforcement action by another agency. An example of the effectiveness of this system can be seen in the case of Mousa Mohammed ABU MARZOOK. MARZOOK was intercepted at JFK airport as the result of a lookout based on his membership in, and leadership of, a terrorist organization. In subsequent proceedings, MARZOOK entered into a stipulated agreement which resulted in his relinquishment of permanent residence, and exclusion and deportation from the United States on May 5, 1997.

C. *TIPOFF*: NAILS is also the repository for lookout information generated by the State Department's TIPOFF system, maintained by the Bureau of Intelligence and Research. TIPOFF is a classified database containing records on individuals who have been identified as probably or definitely involved in terrorist activities by the intelligence community. The data composing the records is assembled by member agencies of the intelligence community, known collectively as information "proprietors." The INS is the lead agency for responding to TIPOFF matches at POEs throughout the United States. Immigration Inspectors at POEs who encounter the subject of a TIPOFF lookout first notify the INS point of contact. The INS contact, in turn, communicates with the specific proprietor of information relating to the subject identified in the lookout, to determine how much information that agency is willing to share, in order to provide INS the cause required to detain and initiate removal proceedings against the individual. The individual who is identified as a TIPOFF "hit" is then processed in light of that assessment, or through any independent information and cause the officer is able to obtain from his or her own inspection, questioning, or search of the individual.

D. *Visa Waiver Pilot Program (VWPP)*: The Visa Waiver Pilot Program (VWPP), which began in 1988, permits nationals from designated countries, who are not otherwise inadmissible, to visit the United States for business or pleasure, for up to 90 days, without obtaining a nonimmigrant visa. Over 50 percent of the non-immigrant visitors who enter the U.S. at air or sea ports-of-entry (POEs), apply for admission under the VWPP. In 1996, the latest year for which statistics are presently available, over 12 million visitors entered under the VWPP.

Eligibility criteria for a country participating in the VWPP includes low visa refusal rates, machine-readable passport requirements, and reciprocity agreements for U.S. citizens. The 26 designated VWPP countries as of September 1997 are: Andorra, Argentina, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Ireland, Iceland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, Netherlands, New Zealand, Norway, San Marino, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom.

Since its inception, the VWPP has been a source of debate because of its dual nature, that of facilitation and enforcement. On the facilitative side, the VWPP eliminates the need for certain nonimmigrant visas to visit the U.S.; encourages and facilitates the entry of missions of visitors from those 26 participating countries to the U.S. every year, thus providing significant economic benefits to the U.S. tourism and other related industries; and it has enabled DOS to reallocate resources to other critical areas. On the enforcement side, INS has a concern that the VWPP has contributed to the general problem of document fraud encountered by immigration officers at U.S. POEs and in the interior of the U.S. Because this hearing is on Federal counterterrorism efforts, my comments today focus solely on the aspects of the program that are problematic to INS enforcement, and the singular area in which it benefits INS enforcement.

The VWPP is advantageous to the prospective illegal entrant in the same way it is for the legitimate VWPP traveler: entry to the U.S. can be achieved with nothing but a valid passport. The waiver of the visa requirement eliminates a major component in document fraud: the need for additional alterations and/or counterfeiting of the visa that would otherwise be placed in the passport, thereby making the fraud more difficult, since both the visa and passport would need to be altered or counterfeited. Absent this additional component, passports of the 26 VWPP countries have become extremely valuable to smugglers and counterfeiters and a flourishing trade has developed in passports of VWPP countries by non-VWPP nationals seeking illegal entry into the U.S.

While I have recounted concerns that attend the VWPP, there is also a singular, and highly effective enforcement aspect to the program as well: individuals who enter the U.S. under the VWPP voluntarily surrender their right to apply for most forms of relief and to certain procedural steps, including a hearing before an immigration judge, unless they request asylum. Thus, it is significantly easier to remove illegal VWPP entrants who are apprehended afterward in violation of the program's limiting terms and conditions.

INTERIOR ENFORCEMENT

We have increased our ability to prevent illegal entry at and between POEs and by doing so, have narrowed the window of opportunity for terrorists. At the same time, we have also expanded our capacities to respond to the terrorists challenge within our borders. Just as Al Capone was ultimately jailed for tax evasion and not for any organized crime charges, INS violations help fill out the federal arsenal of tools to combat terrorism.

Terrorist group members and their associates almost of necessity must violate U.S. immigration and nationality laws to effect entry into—or to remain in—our country; this is their Achilles heel. We have discussed the fact that they are smuggled, and they smuggle their colleagues into, the United States. But, they also materially misrepresent themselves in applying for visas or other benefits; they manufacture and use false identity documents; they submit frivolous asylum applications; they engage in sham marriages; and they commit a host of other immigration-related violations.

A. INS Special Agents: There are at present approximately 2,000 INS Special Agents nationwide who conduct investigations into the full spectrum of violations within our jurisdiction. Their duties include matters involving anti-smuggling, alien-related organized crime, and terrorism. Our Special Agents, by the nature of their investigative duties, routinely interact with various communities within the United States. We know that terrorists have many faces and come from many backgrounds. Sadly, terrorism is an international phenomenon. It is not restricted to any nationality, sex, religion, or educational level. Therefore, we develop numerous sources of information and confidential informants in many communities, to deprive alien terrorist, whenever and wherever possible, with the opportunity to seek cover in these otherwise lay-abiding communities.

INS Special Agents, working closely with the FBI and other agencies, serve the national security by proactively investigating and targeting known terrorists, terrorist organization leaders, members, and associates. Criminal and administrative prosecutions for immigration violations are highly effective tools to penetrate and

disrupt their organizations. When we target these individuals, we concurrently gather an abundance of intelligence information that can make a positive impact in subsequent investigations and which supports the efforts of other agencies within the Federal intelligence community.

I would like to give the subcommittee a few examples:

Just one month ago, after being confronted with his membership in a Department of State-designated terrorist organization during an application for INS benefits, a member of the Mujahedeen-e-Khalq departed the United States rather than face detention and removal proceedings.

About six weeks ago, an East European hijacker who had entered the U.S. by first concealing, and then misrepresenting, his conviction for air piracy accepted an order of deportation and was removed to his country of nationality.

In August of last year, two brothers believed to be members of a proscribed terrorist organization were arrested by INS agents and charged with criminal violations for engaging in marriage fraud to obtain their "green cards." Their cases are still pending with the United States District Court.

Attached as an appendix to his testimony for the record, I have provided the Subcommittee with additional selected highlights of recent cases conducted by the INS.

B. Joint Terrorism Task Forces (JTTFs): The Federal government recognizes that the most effective means in combating terrorism within the United States is through a multi-agency approach, drawing on the investigative expertise and authorities of a host of law enforcement agencies in addition to the FBI. INS Special Agents working with the FBI's Joint Terrorism Task Forces (JTTFs) have played a significant role in recent terrorist investigation nationwide. As a part of Fiscal Year 1997 enhancements, INS deployed 24 full-time Special Agents and 7 support positions to the JTTFs. Others join in investigative activities on a case-by-case basis. INS has also requested 15 additional Special Agents and another support position in the Fiscal Year 1999 budget.

C. Other Liaison: The INS has also assigned three Special Agents and an Intelligence Analyst full-time to FBI Headquarters' International Terrorism Operations Section. Two additional INS Special Agents are assigned full-time to the CIA's Counterterrorism Center. The Service has requested 15 more Special Agents and one support position for assignment to JTTFs for Fiscal Year 1999.

OTHER TOOLS, CAPABILITIES AND OPPORTUNITIES

A. New Laws: The AEDPA and IIRIRA substantially enhanced the statutory authority of INS to target aliens supporting or directly involved in terrorist activities. For example, the alien smuggling statute specifically prohibits aiding and abetting, or conspiring to assist, alien terrorists or subversives to enter the United States and contains a penalty of 10 years imprisonment. Also enhanced to a 20-year minimum sentence, is the penalty for passport and visa fraud violations if committed in conjunction with, or in support of, a terrorist activity.

Also, by making certain violations of immigration law predicates for racketeering charges, for real property forfeiture, for electronic interception, and for upward revision of federal sentencing guidelines, these 1996 statutes greatly enhanced the INS law enforcement officers' ability and authority to contribute to the national counterterrorism effort. The new law has amended the Federal Government's authority to intercept wire, oral or electronic communications, to now include felony violations of false identification documents, false statements in passport applications, fraud and misuse of visas, permits, and other documents, and alien smuggling. This tool is one of the most effective and valuable investigative techniques utilized in both criminal and national security investigative matters. By amending the wiretap statute to include these violations, Congress has recognized the magnitude and complexity of criminal alien smuggling and fraudulent document organizations.

Finally, the AEDPA and IIRIRA enhanced the removal provisions of the INA. The AEDPA created the Alien Terrorist Removal Court in which the government may use classified information in camera and ex parte to prove that an alien is deportable under the terrorist charge.

In addition, on October 8, 1997, the Secretary of State designated 30 organizations as foreign "terrorist organizations" under section 219 of the INA. This designation now allows the INS to deny admission to all "representatives" and certain "members" of these organizations.

B. CIPRIS: Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) requires that the Attorney General, in consultation with the Secretary of State and the Secretary of Education, design and conduct a program for the collection of certain specified information from students and exchange visitors. Not later than January 1, 2002, the Attorney General must provide

to the Committee on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expansion to cover the nationals of all countries in the United States on the F, M, or J visas. Finally, section 641 of IIRIRA calls for completion of the expansion of the student information tracking program no later than one year after the report is submitted to the Congress.

By notice published in the Federal Register on January 17, 1997, the Service solicited participants for a pilot program to redesign and improve collection and reporting of information regarding foreign students and exchange visitors. The pilot, known as CIPRIS (Coordinated Interagency Partnership Regulating Students (and Scholars)) implements the requirements of section 641.

The Service selected 22 schools or institutions as CIPRIS participants and the pilot was launched for the 1997-1998 academic year. The Service designed CIPRIS in partnership with the United States Information Agency (USIA), the Department of State (State), and the Department of Education to test the electronic collection and transmission of data between a pilot school and the Federal government. State, through its consular function, issues visas to qualified foreign students and exchange visitors and the USIA administers the J cultural exchange visitor program, including students and scholars using the J visa. Aliens classified for nonimmigrant visas under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act and in attendance at the 22 pilot schools constitute the CIPRIS test population.

Through CIPRIS, the Service is testing the transmission via the INTERNET of information concerning foreign students from the schools to the INS data base. CIPRIS envisions access to this data base by State and the USIA. The Service seeks to reduce the reporting burden for schools, improve the timeliness and accuracy of the information, and replace manual history files on foreign students and schools with electronic files.

Although the preliminary feedback from the CIPRIS pilot has been favorable, it is important to note that the present pilot system is not fully deployable. Rather, INS officials view it as a working module established to validate the concept. To that end, the INS is committed to completing a thorough and independent evaluation of the CIPRIS pilot project as we examine solutions that are appropriate for deployment nationwide.

CHALLENGES

A. Database Integrity: One area where we need improvement is in the quality and timeliness of the information we enter into these critical databases. We are sensitive to the concerns expressed by Congress and others, particularly in two areas:

With regard to our oversight and control responsibilities toward the entry and stay in the U.S. of individuals from countries designated as state sponsors or supporters of terrorism; and,

With regard to nonimmigrants who come to the U.S. to study or engage in endeavors that involve sensitive technologies.

The experience the INS has gained in implementing quality assurance procedures for other programs and systems will be useful in improving the information we gather and input from visitors and visa holders.

B. Information-sharing agreements: Existing information exchange protocols need to be strengthened between INS and agencies in possession of information relating to foreign terrorists.

1. To enhance the reliability of information within our databases;
2. To ensure that the INS possesses the evidence necessary to sustain charges against alien terrorists based on other agency information; and,
3. To avoid—through either inadvertence or lack of knowledge—granting entry to or bestowing benefits upon alien terrorists.

CASEWORK STATISTICS

It is difficult to provide comprehensive statistics on the number of known or suspected terrorists under investigation, under proceedings, or removed from the United States, because there is no database or system that tracks solely those aliens who have been identified as being involved with terrorist activity. Instead, the INS must look to several indices that track by section of law charged, as well as to internal tracking systems.

However, these figures do not tell the whole story, and are in fact an undercount, simply because it is often necessary to charge known terrorists with other, non-terrorist violations of the immigration laws. Charging aliens as terrorists requires a substantial amount of proof, and the evidence is often classified. With the exception of the Alien Terrorist Removal Court, the INA precludes using classified evidence

to prove the deportation charge; we are only able to present classified information to oppose discretionary relief, or to oppose withholding of deportation. Thus, when other violations are available and provable without classified evidence, the INS generally charges individuals with those violations instead. In the past two years, the INS has presented classified evidence to oppose applications for relief in approximately 25 cases. With the above caveats in mind, our statistical system reflects that from Fiscal Year 1995 through the first quarter of Fiscal Year 1998, the INS has removed 98 aliens on security and related charges:

<i>Section of Law</i>	<i>Number of Removals</i>
212(a)(3)(A)(ii)—Excluded	5
212(a)(3)(A)(ii)—Deported	3
212(a)(3)(B)(I)(I)—Excluded	1
212(a)(3)(A)(ii)—Deported	1
212(a)(3)(B)(ii)(II)—Excluded	2
237(a)(4)(B)—Removed	2
241(a)(4)(A)(I)—Deported	8
241(a)(4)(A)(ii)—Deported	22
241(a)(4)(A)(iii)—Deported	2
241(a)(4)(B)—Deported	52
Total	98

Because the INS does not have a method of tracking aliens involved in terrorist activity but who are charged under other provisions of law, we cannot provide you with the figure. Anecdotal information confirms that the INS has removed twelve terrorists in addition to those described in the table above. Furthermore, there are approximately 48 cases currently pending.

CONCLUSION

Mr. Chairman and Members of the Subcommittee, to recap: the experts make clear that terrorism will continue to be a threat to the safety and security to the United States, both domestically and on the international scene, for the foreseeable future.

As INS has shown, we have come a long way in increasing and honing our counterterrorism efforts in cooperation with, and as a partner of, the other Federal agencies. But, we also acknowledge that we need to improve our infrastructure in order to overcome the challenges facing our counterterrorism efforts. Thank you for the opportunity to have shared with you our role in this important area.

I will do my best to respond to any questions you may have regarding the endeavors of the Immigration and Naturalization Service in the Federal government's counterterrorism effort.

Senator KYL. Thank you very much, Mr. Cadman. That is an excellent report, and there are so many questions the two of us here want to ask you, but we will move on here to our third and final member of this panel, Richard Rohde, Deputy Assistant Director of the U.S. Secret Service. Mr. Rohde's office is responsible for investigating financial crimes, including bank fraud, credit card fraud, telecommunications and computer fraud, and the counterfeiting of U.S. obligations. He will discuss some of the criminal fundraising activities exploited by individuals affiliated with foreign terrorist organization.

Mr. Rohde, welcome.

STATEMENT OF RICHARD A. ROHDE

Mr. ROHDE. Good morning, Mr. Chairman. I would like to thank you, Senator Feinstein, and the other members of the committee and your staffs for providing this forum to us. We at the Secret Service approach the issue of terrorism from two angles: First, as part of our protective mission, we are intimately involved in preventing terrorist attacks; second, as part of our traditional role in

law enforcement, we become involved in investigating terrorism when it involves financial, telecommunications, or computer crimes.

I hope my testimony today will give this subcommittee and the public at large a new perspective on the interrelationship between financial crimes and terrorism and, as a result, provide a better understanding of the Secret Service's contribution to the fight against terrorism through our investigative mission.

Throughout its history, the Secret Service has been tasked with maintaining the integrity of the U.S. financial systems. Payment systems have evolved to incorporate new technologies such as plastic and electronic payment systems. As a result, these payment systems have become much more global in nature, resulting in the Secret Service expanding its expertise in the area of financial crimes investigations. Today the Secret Service is respected throughout the world for its expertise in the investigation of these types of crimes.

Much of our success in the investigation of financial crimes is directly attributable to our partnership approach to investigations. The Secret Service has been and continues to be an advocate for developing and maintaining partnerships with the worldwide financial and law enforcement communities. We believe these partnerships are the most effective tool in safeguarding the world's financial systems against organized attacks.

The success of these partnerships can best be illustrated by the following examples:

Recently, the Secret Service was called upon by the Immigration and Naturalization Service to assist in the investigation of two Middle Eastern men attempting to enter the United States. During a search of the suspects' vehicle, counterfeit credit cards, counterfeit resident alien cards, and narcotics were found. When a third suspect was located and arrested, two counterfeit credit cards and one counterfeit driver's license were found in his possession.

Subsequent investigation determined that the account numbers embossed on the counterfeit cards were issued by a credit card issuer located in Brazil. Credit card investigators, working closely with our agents from our Miami field office, have learned that an organized group of Lebanese nationals are responsible for counterfeiting these credit cards. Sources close to the investigation have indicated that this group is affiliated with a Middle Eastern terrorist organization.

Furthermore, an inquiry with our own Intelligence Division revealed that the suspects detained by INS are "of record" as having ties to a Middle Eastern terrorist organization.

Losses to date from the misuse of these credit cards are in excess of \$17 million. The investigation into the source of the counterfeit card manufacturing plant continues.

Another noteworthy investigation occurred when the Secret Service was contacted with information pertaining to a credit card fraud scheme being perpetrated by a group of Middle Easterns with affiliations to known Middle Eastern terrorist groups.

This type of scheme in question is often referred to as the regulation Z fraud, or booster check/bust out scheme. Because of our expertise in these types of investigations, we were asked for our assistance. In addition, due to the variety and sophistication of the

criminal activities of the group, it was decided that the best approach for a successful investigation would be to create a task force. This task force ultimately involved many Federal agencies, as well as members of the financial community.

The investigation revealed that a group of Middle Easterners organized into cells located throughout the United States had applied for and received numerous credit cards. Some members had received in excess of 40 credit cards. These card holders systematically boosted the credit limits to the maximum amount available. Once they established their portfolio of unsecured credit card debt, they submitted worthless checks as payment for these accounts in advance of the purchases being made. In most cases, these checks were in amounts exceeding the card holder's credit limit, and in some instances twice that amount.

The check amounts were posted to the accounts prior to the checks clearing the bank. This resulted from the banks' misinterpretation of regulation Z. Regulation Z is a banking regulation which states:

A creditor shall credit a payment to the consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance or other charge.

Criminals exploiting the banks' misinterpretation of this regulation has subsequently given rise to the term regulation Z fraud.

Before the checks were returned as worthless, the card holders purchased merchandise and/or obtained cash advances up to and in most cases in excess of the limit on the accounts, thereby busting out of the accounts.

The individuals in these cells have been identified as operating and traveling throughout the United States as well as the Middle East. To date, 31 suspects have been identified. Several defendants have been convicted. Additional defendants have fled the United States and are currently international fugitives. Efforts to locate and arrest these individuals continue. Losses to financial institutions have been in excess of \$4.5 million.

Since 1991, fraudulent activity on telecommunications systems has grown significantly in all types of activity, including stolen account numbers, subscriber fraud, and wireless cloning fraud. Reflecting this growth, the Secret Service has doubled the number of arrests brought for Federal prosecution for these violations every year since 1991.

The ability to obtain anonymous phone service has become both an asset to the criminal and an obstacle to law enforcement. In our experience, the suspects under investigation for the fraudulent use of telecommunications systems are rarely committing this crime exclusively. Numerous investigations were initiated as significant fraud investigations and evolved into multiagency investigations involving narcotics trafficking, weapons dealing, and violent crimes in which fraudulent access to telecommunications systems facilitated the activity.

One example of this type of activity is the investigation of a call-sell operation in the southeastern area of the United States. The term call-sell is derived from an organized effort by suspects to sell long-distance telephone access to callers using fraudulently obtained service. These operations typically are used to complete calls to and from international locations. In the case from the southeast-

ern area, tracing of international calls placed with cloned cellular telephones to locations in the Middle East led to the arrest of two individuals. These individuals were identified as the subjects of a national security investigation. This case illustrates the relationship between crimes typically referred to as white-collar and other types of criminal activity. The ability of criminal enterprises to utilize the proceeds of fraud schemes to further other crimes cannot be overestimated. It is virtually impossible for all law enforcement to completely identify the motives of a criminal at the outset of an investigation. Law enforcement must continue to utilize its specialized expertise, coupled with a strong cooperative effort to maximize its effectiveness.

The Secret Service is currently in the midst of a major international training initiative in which we are training and interacting with industry and other law enforcement agencies regarding the global implications of financial systems and telecommunications infrastructure vulnerabilities. Our strategy is to know the participants and their current concerns, understand the technology, and recognize appropriate areas for input.

As the Secret Service continues to investigate financial crimes, it has become evident that organized criminal groups are utilizing numerous systemic weaknesses in the global financial system to underwrite an array of criminal activities.

Although the Secret Service is not tasked with the direct investigation of terrorism, the constant intermingling of these criminal activities demands that the Secret Service continue to play an important role in the fight against those financing terrorism through financial crimes. As stated previously, the Secret Service will always advocate and practice its partnership approach in its role as the vanguard of the American economy.

This concludes my prepared remarks, Mr. Chairman. I would welcome any questions that you or Ms. Feinstein might have. Thank you.

Senator KYL. Thank you, Mr. Rohde. I might note that legislation which I have introduced and which has come out of this subcommittee relating to cellular phone cloning and enhancing the ability to prosecute that crime I think should very quickly be now passed out of both Houses and sent to the President. That will help at least in one of these areas, I know.

Well, again, we have so many questions to ask, and this hearing was supposed to be concluded by noon, and yet we have one whole panel yet to go. So we will try to get through as quickly as we can, and perhaps have to submit some questions in writing to you.

Mr. Watson, let me begin with you. Perhaps you heard the testimony in the first panel relating to the fact that in the case of the coconspirator of Ramzi Yousef, Ajaj, who had the material taken from him upon his detention, that apparently no one had bothered to continue to investigate Ajaj or to translate his phone calls, notwithstanding the fact that apparently the FBI was aware that the manuals related to bomb-making.

What would be the explanation for that? What is FBI policy? And can you enlighten us further on that general problem?

Mr. WATSON. I will do the best I can with that, Senator. The response should be that, regardless of who is arrested or under what

circumstances, that should have tripped a trip wire where obviously this individual has manuals, something other than coming to see Disney World, for instance. The FBI should have and probably did look at that and probably were notified at some point in time that this was in the process of going on.

In the future, the individual that came over across from Canada to Washington that disappeared, in hindsight, looking back over that process, that individual left from Washington. We did a fairly extensive job of tracking him through Chicago, down to North Carolina, and then back up to Brooklyn. But that was after the fact. So certainly in this particular case, it probably should have been a little more aggressive in what this activity was and studied that book and looked closer at it.

Senator KYL. In terms of lessons learned, could you indicate that that little chapter has been shared with all of the appropriate law enforcement officials, not just FBI, and presumably that at least—

Mr. WATSON. Certainly we go through that process, Senator, in the training phase.

Senator KYL. I think that is very important.

Moving now to Mr. Cadman, mention was just made of tracking across the Canadian border. Your testimony was replete with instances and very distressing statistics about—in fact, you say the Canadian border is an alternative gateway for illegal entry into the United States. You talked about the number. In 1996, INS inspectors identified 622,749 inadmissible aliens, not all of whom came across the Canadian border, but many at the Canadian border, and other specific instances there. And yet we have suggestions by some in the Congress that the entry/exit system, which is designed to at least tighten down a little bit on both of our borders, that those provisions that were so carefully crafted to try to deal with this problem, now be repealed because it is inconvenient for shoppers and people that have jobs on both sides of the border.

Coming from a border State, both Senator Feinstein and I are very much aware of the need to enhance commerce, of the need to facilitate travel for family and other purposes, recreational purposes, but at the same time ensure that our borders are as secure as we can possibly make them, not only from illegal contraband coming in, like drugs, for example, but also illegal aliens and, in particular, people that might be engaged in terrorist activities.

What kind of comments would you have with respect to those efforts to now relax these laws, and specifically the concerns that we have with regard to the Canadian border, understanding, of course, that Canada is undoubtedly the closest country in the world to the United States and we fully appreciate the efforts of the Canadian Government, and none of these comments is meant to disparage our close cooperation with our Canadian neighbors?

Mr. CADMAN. I would have to be very careful in my comments about the question, and I know that there has been a great deal of debate, at least in some measure because the Canadians have expressed a great deal of distress over this issue.

I am not at the policymaker level, do not purport to be. I think one of the things that must be considered is the issue of reciprocity, and certainly the Canadians are concerned that if people who are

attempting entry into the United States through the ports, not between the ports, illegally across the border, are going to be subjected in the minds both going and coming to some additional form of scrutiny, that they feel that there may be the possibility that they need to examine their structures.

But I don't think anyone in INS would disagree that we need, through whatever mechanism, to have a better and more timely method of not only recording the data of entries but of being able to verify an individual's departure.

Again, I am not a policymaker and would not comment on the specifics of section 110. That would not be my place. I would certainly welcome submitting to the subcommittee the policy of my agency hereafter.

Senator KYL. Well, I appreciate that. Just one of the cases, for example, is the Abu Mezer case, pipe bombs, arrested in New York City, and apparently made several attempts to illegally enter the country in the company of others along known smuggling routes in the northwestern border between Canada and the United States.

Mr. CADMAN. That was an unfortunate case that certainly evidences Murphy's law. Every time that we are aware of that he entered illegally, we effected his arrest. Unfortunately, the last time that he was arrested and presented to an immigration judge, the bond that had initially been assessed against him by the INS Director was lowered by the immigration judge, and the man was released on bond, and it was thereafter during the course of the immigration proceeding that his attorney of record addressed the court and said the man has left.

Now, unfortunately, that proved later not to be at all the case. But given the nature of the man's surreptitious entry to begin with, I am not sure even in that context that the departure would have married against an entry within the context of section 110 because there was no lawful entry. He had penetrated the border illegally across what appears both to the Canadians and us to be a well-traveled smuggling route.

Senator KYL. My time on this round is done, but also the case of Ramzi Yousef is distressing because he was released on his own recognizance, and it may suggest the need for us to tighten down somewhat on the release procedures when we know that someone has used improper activities to either gain or retain entry and presence in the United States.

Mr. CADMAN. Well, certainly one area that has helped us is the expedited removal proceedings that have assisted us in being able to crackdown on out of port of entry when an individual arrives, and even if they claim at that juncture, if they claim asylum, for us to be in a better position to make an assessment of the bona fides of that claim and keep them in custody while that further determination is made. So, hopefully, in that instance, we never say never, but we are much better prepared than we have been in the past because of the new legislation.

Senator KYL. Excellent point. Thank you.

Senator FEINSTEIN.

Senator FEINSTEIN. Thank you very much, Mr. Chairman.

Mr. Cadman, please don't worry about the fact that you are not a policymaker. I think, you know, what works on the streets is

really what is important rather than what is politically correct in a lot of this. And I am one that has become very, very concerned with what I see as political agendas driving a lot of these things, and in the course of which we see enormous loopholes developing through which fanatical terrorists can certainly move.

Could you tell me this? You mentioned in your testimony, was it in the last two years that 98 terrorists were removed on other charges? And then you added 12, and you said there are 48 cases pending. My question to you is: Could you tell me what is working, you know, how they are being picked up? Just use this 150 or so cases.

Mr. CADMAN. Well, there are a mixture of ways that it is happening. At the ports of entry, we are using our automated lookout system, which has, as I mentioned, one component, the TIPOFF system, so that when an individual arrives at a port of entry who is within our lookout system or within TIPOFF, which feeds our lookout system, that is an alert to our inspectors to put the individual into secondary.

One of the difficulties we sometimes have with the TIPOFF system is that an intelligence agency will put the individual into TIPOFF as a suspected or known terrorist, but may thereafter be reluctant to provide us the classified evidence to establish the charge, which leaves our inspectors in the position of trying to establish a secondary charge within the course of their interview interrogation of the individual at the port.

Senator FEINSTEIN. Stop right there. Why are they reluctant to give you the data?

Mr. CADMAN. It has happened in the past that they have not understood completely the nature of immigration hearings, and they have a very keen interest in ensuring that that data not be compromised. They are particularly concerned where sources and methods of intelligence collection are concerned, and I think it is a legitimate concern. But I think that the fact that we have presented 98 cases since 1995 shows that we have made a great deal of progress in establishing the parameters under which we can safeguard evidence or find alternative ways to charge people and still get them out of the country.

Senator FEINSTEIN. Again, from the perspective of the streets, are there any suggestions that you would have as to how INS' ability to arrest suspected terrorists at the border might be increased?

Mr. CADMAN. Well, I can't emphasize enough the information exchange, the sharing of information. Part of our job is to educate other agencies as to the nature of our proceedings, what evidence means in the immigration hearing context, so that they feel comfortable providing evidence to us that for them does implicate sources and methods and be assured that we can safeguard that evidence and still present our cases. And I know, frankly, that there has been a great deal of discussion in the media and elsewhere about the use of secret evidence.

We are very, very sensitive ourselves to that issue. We use that only as a court of last resort, if you will pardon a bad pun. We have only used classified evidence, to our knowledge, in about 30 cases in the last couple of years, and in all of those other cases, we have

managed to find alternative methods of presenting the individuals before immigration judges for removal.

Senator FEINSTEIN. What were the most common things that led you to pick up these 150 people?

Mr. CADMAN. Some of them, in some instances it was, in fact, the result of a tip or a lead from another agency saying you need to take a look at—

Senator FEINSTEIN. That is the most prevalent thing?

Mr. CADMAN. That is quite frequent.

Senator FEINSTEIN. In other words, you are waiting for them to cross?

Mr. CADMAN. And in other instances, we arrest someone in the interior of the United States, something triggers the agent who has made the arrest to say, I need to find out a little more about this individual, and then initiate contact with the FBI and other law enforcement and intelligence agencies, and they come back and confirm to us, well, something isn't quite right here.

Mr. WATSON. Senator, could I just comment on that?

Senator FEINSTEIN. Certainly.

Mr. WATSON. Some of those cases involve members of terrorist organizations in the United States. We look at those very aggressively. If we have a person identified in Boston that we feel has some terrorist connection that we cannot prove that it is that specific act or he is about to do a bombing or has done a bombing in the past, but we want to get him out of the country, we very aggressively pursue that individual on what other criminal violations he might be participating in, be it health care fraud, be it mail fraud, stolen, bootlegged blue jeans, whatever, to get a criminal process against that individual at which we have a conviction, we refer it to INS, and out, hopefully, the individual goes.

Senator FEINSTEIN. While you are speaking, Mr. Watson, let me ask you a—Mr. Cadman, excuse me. How did Sheik Rahman get his green card?

Mr. CADMAN. I don't know the answer to that question.

Senator FEINSTEIN. OK. Mr. Watson, there were several law enforcement tools that the President requested in the terrorism bill which were dropped out of the bill. Among these were the multipoint wiretaps, the emergency wiretap authority in certain circumstances, and making terrorism crimes RICO predicates.

Do you believe these would be helpful? Should this committee make an effort to pursue it? Or is this something the FBI doesn't really feel they need?

Mr. WATSON. I think in the area of encryption obviously that is very important to us. I think in the area of roving wiretaps that is also a very important issue to us. A RICO predicate on terrorism matters is also a very good law enforcement tool. We are very much interested in those techniques. We are always interested in obtaining additional techniques that we can apply in our fight on counterterrorism.

So the answer to your question is we would welcome any additional law enforcement techniques, particularly those areas that you mentioned.

Senator FEINSTEIN. I would think the RICO predicate would come in handy, too, where a lot of these groups are actively fundraising in the United States and have inroads into businesses.

Mr. WATSON. Obviously you are aware of the RICO. Certainly that is a correct statement.

Senator FEINSTEIN. Could I ask a question? Would you, Mr. Cadman, be willing to tell us a little bit about your progress on the student tracking system?

Mr. CADMAN. Yes. You are, I believe, probably making specific reference to the CIPRIS project, C-I-P-R-I-S. That is the acronym that has been developed for the system. This was a system developed pursuant to section 641 of the Illegal Immigration Reform and Immigrant Control Act.

It involves 22 different universities in the southeastern part of the United States that have agreed to participate with INS to establish a near-real-time tracking system for the foreign student population within the universe of those 22 universities. It involves a novel concept in that it uses the Internet. The universities feed the data on these students to the INS through the Internet. INS is then able to extract the data and feed it into its own repository.

The advantage is that it is close to real time in nature, and data that we would not ordinarily be able to get readily, such as if a student has dropped the requisite number of courses or is now changing his or her major, is available in that system.

Senator FEINSTEIN. Please point that out. I mean, I don't want anybody to think that there is some kind of great witch hunt going on for students, because that is not the case.

Mr. CADMAN. There is a great deal of benefit to the universities ultimately in such a system as well because it assists them up front. Frankly, however, for these 22, there is a burden because they are functionally carrying out two different systems at the moment. They are maintaining the CIPRIS system and manual paper files, double tracking, so that is part of the process of seeing how good the system works.

The benefit is we are using the Internet. The downside is we are using the Internet. There are very serious questions that arise when one is using the Internet to feed a Government system. The Internet is replete with crackpots. Anyone can get access to it, and one of the reasons INS has been very careful, along with the contractors in this project, is to be sure that our firewall between what they feed and what we take out is sufficient that no one else can use that as a worm hole into our system and attack that database or other more established databases. That is, of course, a very, very serious issue for INS to confront.

The question, I think, as to INS' stance on CIPRIS is have we ceased funding. INS at this juncture has not ceased funding for maintenance of the project through July of this year. INS has, however—the seed money that was put up front was not enough to continue further development, expansion—translate expansion here—or, frankly, even enough to do the evaluation. However, there has been an internal scrub, I am told, as of Friday, there has been an internal scrub of INS' information resource management moneys to find the funds necessary to have the contractor and the internal INS personnel do a very exhaustive, in-depth analysis of that

project, after which the decision will be made whether or not this comports with the requirements of section 641.

If it does and it can be expanded, it would be a wonderful thing. We acknowledge our shortfalls in our ability to track students right now. Part of that problem is that the present system requires feeding huge amounts of pieces of paper to a contractor for data input, and so they have the equivalent of a huge boiler room of people data-inputting. That not only causes to some extent keying errors, but it also causes a problem of timeliness in getting the data into our present system. And that, to the extent that it impedes INS' capacities or the capacity of other agencies to see who is here under student visas, it is a problem.

Senator FEINSTEIN. One last question. Senator Kyl asked you about the Visa Waiver Pilot Project. Of the terrorists that you elucidated in your remarks, were any of them part of the Visa Waiver Pilot Program?

Mr. CADMAN. I believe—I could not tell you that the program has not been used for that purpose, and I think we have been pretty—

Senator FEINSTEIN. Is the answer yes?

Mr. CADMAN. Yes. But in fairness, I want to say that we are aware that there are impediments to the full functioning of VWPP as it was envisioned. Part of that is the issuance process used by other governments in their passports and travel documents, bringing them up to a U.S.-machine readable type of standard. And one of the things that has been done, in part because of amending legislation, is that the Attorney General has taken a role in this process and has directed the establishment of an interagency working group that is under the direction of the EONS, the Executive Office for National Security, within DOJ. And they are taking all of these concerns very, very, very seriously.

So I want certainly to leave you with the understanding that Main Justice and INS are aware of some of the project's shortcomings. We have not advocated that it be stopped, but we have certainly advocated that it be frozen in place pending the results of this interagency working group and that there be better methods of collection of data about the individuals who have come in under the program.

Senator FEINSTEIN. When should that study be completed? When could we expect it?

Mr. CADMAN. I don't know, Senator, but we will find out the answer for you.

Senator FEINSTEIN. Thank you.

Senator KYL. Great. Thank you.

Senator Feinstein, I am going to break my own rule here, because we have got to go to the next panel, but I do want to ask Mr. Watson one final question.

On February 23, we received a memorandum from the CIA Counterterrorism Center regarding the fatwas or religious rulings by militant Islamic groups against the United States. Let me just read three paragraphs of that memorandum and ask your response to it:

The coalition of Islamic groups in London and terrorist financier Usama Bin Ladin have issued separate fatwas, or religious rulings, calling for attacks on U.S. persons

and interests worldwide and on those U.S. allies. Although referencing the current confrontation with Iraq, both fatwas called for attacks to continue until U.S. forces "retreat" from Saudi Arabia and Jerusalem. The fatwa from the group in London also calls for attacks until sanctions on Iraq are lifted.

These fatwas are the first from these groups that explicitly justify attacks on American civilians anywhere in the world. Both groups have hinted in the past that civilians are legitimate targets, but this is the first religious ruling sanctifying such attacks.

While the religious clerics who issued these rulings are not named, the two groups consider the fatwas to be legitimate. The group in London made reference to unnamed religious authorities in Lebanon, Jordan, and Palestine.

Are we in a period of heightened risk? Should Americans be concerned about these threats?

Mr. WATSON. Certainly Americans should be concerned about these threats as it relates to—you referred to it. The FBI has a criminal investigation going forward on Mr. Bin Ladin, so I would like to hold those comments in abeyance.

The fatwa is certainly an issue. We know the Iranians have issued fatwas, Salman Rushdie, for instance. This is not an uncommon type of occurrence, that they will continue, and we do see, working with our counterparts at the agency, increased threats toward American targets, not only military but soft targets around the world, U.S. businesses, businessmen, -women, tourists, and targets of that nature.

I think this is a trend. Obviously those terrorist organizations want the United States out of Saudi Arabia and out of the Middle East. If they had their preference, especially the clerics would issue a fatwa to that effect. It does not surprise me at all.

Senator KYL. Thank you very much, Mr. Watson, Mr. Cadman, Mr. Rohde. We very much appreciate your testimony. We will be submitting some additional questions to you for a response on the record.

Thank you.

Senator KYL. Now we will, as this panel is exiting, turn to our third and final panel: Benjamin Jacobson, Omar Ashmawy, and Steve Emerson.

As our final panelists are taking a seat at the table, let me introduce them. Our last panel today will provide with an in-depth look at the growth of extremist Islamic terrorist infrastructures and criminal enterprises in the United States and the threat that this growth poses to the moderate Muslim community and America.

Mr. Jacobson, our first witness on this last panel, is testifying before us today in his capacity as a private consultant hired in 1988 by the largest coupon processor in the United States to ferret out the sources of supermarket coupon fraud. This fraud was costing the industry millions of dollars by its own estimate and thought to be affiliated with foreign terrorists. While investigating this case over the course of the next 6 years, Mr. Jacobson discovered that lucrative networks of coupon fraud artists existed, some of whom were indeed affiliated with terrorist groups and engaged in other forms of criminal activity. One of the individuals identified in this scam is now serving 240 years for his role in the World Trade Center conspiracy.

Mr. Jacobson is a former New York City Police Department detective who served as the director of security for Philip Morris Companies and Bankers Trust prior to starting his own consulting

business. And as I introduce each of the three of you, let me again say that I am very, very sorry that our time is so constrained, but this panel will have to consume no more than about 20 to 25 minutes at the absolute maximum. So, I apologize for restricting your testimony, but please be aware of those constraints as we begin.

[The memorandum about fatwas or religious rulings follows:]

UNCLASSIFIED

23 February 1998

SUBJECT: Fatwas or Religious Rulings by Militant Islamic Groups Against the United States

1. This memorandum responds to your request for information about the recent fatwas issued by militant Islamic groups calling for attacks against the United States
2. A coalition of Islamic groups in London and terrorist financier Usama Bin Ladin have issued separate fatwas, or religious rulings, calling for attacks on US persons and interests worldwide, and on those of US allies. Although referencing the current confrontation with Iraq, both fatwas call for attacks to continue until US forces "retreat" from Saudi Arabia and Jerusalem. The fatwa from the groups in London also calls for attacks until sanctions on Iraq are lifted.
3. These fatwas are the first from these groups that explicitly justify attacks on American civilians anywhere in the world. Both groups have hinted in the past that civilians are legitimate targets, but this the first religious ruling sanctifying such attacks.
4. While the religious clerics who issued these rulings are not named, the two groups consider the fatwas to be legitimate. The group in London made reference to unnamed religious authorities in Lebanon, Jordan, and "Palestine "

Attachment

Text of Fatwa by Usama Bin Ladin's Organization

This memorandum was prepared by Cynthia Storer, DCI Counterterrorist Center. It was coordinated within the CIA. Comments and queries are welcome and may be directed to the Chief, Near East/South Asia Assessments Branch on 72974 secure or (703) 874-5009 nonsecure. (U)

UNCLASSIFIED

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SUBJECT: Fatwas or Religious Rulings by Militant Islamic Groups Against the US

Fatwa Issued by Usama Bin Ladin's Organization

MUSLIM WORLD: Text of Fatwa Urging Jihad Against Americans

MM2302163198 London Al-Quds al-'Arabi in Arabic 23 Feb 98 p 3

["Text of World Islamic Front's Statement Urging Jihad Against Jews and Crusaders" -- Al-Quds al-'Arabi headline; in a front-page report, Al-Quds al-'Arabi says that the statement was "faxed to Al-Quds al-'Arabi and signed by Shaykh Usamah Bin-Muhammad Bin-Ladin (the prominent Saudi oppositionist); Ayman al-Zawahiri, amir of the Jihad Group in Egypt; Abu-Yasir Rifa'i Ahmad Taha, a leader of the [Egyptian] Islamic Group; Shaykh Mir Hamzah, secretary of the Jamiat-ul-Ulema-e-Pakistan; and Fazlul Rahman, amir of the Jihad Movement in Bangladesh"]

[FBIS Translated Text] Praise be to God, who revealed the Book, controls the clouds, defeats factionalism, and says in His Book: "But when the forbidden months are past, then fight and slay the pagans wherever ye find them, seize them, beleaguer them, and lie in wait for them in every stratagem (of war)"; and peace be upon our Prophet, Muhammad Bin-'Abdallah, who said: I have been sent with the sword between my hands to ensure that no one but God is worshipped, God who put my livelihood under the shadow of my spear and who inflicts humiliation and scorn on those who disobey my orders.

The Arabian Peninsula has never -- since God made it flat, created its desert, and encircled it with seas -- been stormed by any forces like the crusader armies spreading in it like locusts, eating its riches and wiping out its plantations. All this is happening at a time in which nations are attacking Muslims like people fighting over a plate of food. In the light of the grave situation and the lack of support, we and you are obliged to discuss current events, and we should all agree on how to settle the matter. No one argues today about three facts that are known to everyone; we will list them, in order to remind everyone:
First, for over seven years the United States has been occupying

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SUBJECT: Fatwas or Religious Rulings by Militant Islamic Groups Against the US

the lands of Islam in the holiest of places, the Arabian Peninsula, plundering its riches, dictating to its rulers, humiliating its people, terrorizing its neighbors, and turning its bases in the Peninsula into a spearhead through which to fight the neighboring Muslim peoples.

If some people have in the past argued about the fact of the occupation, all the people of the Peninsula have now acknowledged it.

The best proof of this is the Americans' continuing aggression against the Iraqi people using the Peninsula as a staging post, even though all its rulers are against their territories being used to that end, but they are helpless.

Second, despite the great devastation inflicted on the Iraqi people by the crusader-Zionist alliance, and despite the huge number of those killed, which has exceeded 1 million... despite all this, the Americans are once again trying to repeat the horrific massacres, as though they are not content with the protracted blockade imposed after the ferocious war or the fragmentation and devastation.

So here they come to annihilate what is left of this people and to humiliate their Muslim neighbors.

Third, if the Americans' aims behind these wars are religious and economic, the aim is also to serve the Jews' petty state and divert attention from its occupation of Jerusalem and murder of Muslims there.

The best proof of this is their eagerness to destroy Iraq, the strongest neighboring Arab state, and their endeavor to fragment all the states of the region such as Iraq, Saudi Arabia, Egypt, and Sudan into paper statelets and through their disunion and weakness to guarantee Israel's survival and the continuation of the brutal crusade occupation of the Peninsula.

All these crimes and sins committed by the Americans are a clear declaration of war on God, his messenger,

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SUBJECT: Fatwas or Religious Rulings by Militant Islamic Groups Against the US

and Muslims. And ulema have throughout Islamic history unanimously agreed that the jihad is an individual duty if the enemy destroys the Muslim countries. This was revealed by Imam Bin-Qadamah in "Al-Mughni," Imam al-Kisa'i in "Al-Bada'i," al-Qurtubi in his interpretation, and the shaykh of al-Islam [not further identified] in his books, where he said: "As for the fighting to repulse [an enemy], it is aimed at defending sanctity and religion, and it is a duty as agreed [by the ulema]. Nothing is more sacred than belief except repulsing an enemy who is attacking religion and life." On that basis, and in compliance with God's order, we issue the following fatwa to all Muslims:

The ruling to kill the Americans and their allies -- civilians and military -- is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque [Mecca] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim. This is in accordance with the words of Almighty God, "and fight the pagans all together as they fight you all together," and "fight them until there is no more tumult or oppression, and there prevail justice and faith in God."

This is in addition to the words of Almighty God: "And why should ye not fight in the cause of God and of those who, being weak, are ill-treated (and oppressed)? -- women and children, whose cry is: 'Our Lord, rescue us from this town, whose people are oppressors; and raise for us from thee one who will help!'" We -- with God's help -- call on every Muslim who believes in God and wishes to be rewarded to comply with God's order to kill the Americans and plunder their money wherever and whenever they find it. We also call on Muslim ulema, leaders, youths, and soldiers to launch the raid on Satan's U.S. troops and the devil's supporters allying with them, and to displace those who are behind them so that they may learn a lesson.

Almighty God said: "O ye who believe, give your response to God and His Apostle, when He calleth you to that which will give you life. And know that God cometh between a man and his heart, and

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SUBJECT: Fatwas or Religious Rulings by Militant Islamic Groups Against the US

that it is He to whom ye shall all be gathered."

Almighty God also says: "O ye who believe, what is the matter with you, that when ye are asked to go forth in the cause of God, ye cling so heavily to the earth! Do ye prefer the life of this world to the hereafter? But little is the comfort of this life, as compared with the hereafter. Unless ye go forth, He will punish you with a grievous penalty, and put others in your place; but Him ye would not harm in the least. For God hath power over all things." Almighty God also says: "So lose no heart, nor fall into despair. For ye must gain mastery if ye are true in faith."

(endall)

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Subject: Al Masari Declares Jihad on USA and UK

- 10 February 1998(ce)

MUSLIMS IN BRITAIN DECLARE WAR AGAINST THE US AND BRITISH GOVERNMENTS

PRESS RELEASE

The Fatwa is Jihad against the US and British governments, armies, interests, airports and institutions and it has been given by the most prominent scholars of Islam today because of the US and British aggression against Muslims and the Muslim land of Iraq.

The governments of the United States and Britain are openly planning another military attack on Islam, the Muslim land of Iraq and on the people of Iraq, Muslims and non-Muslims. Therefore we, the undersigned Scholars, Muslim leaders and groups declare the following:

1. The Military strikes against Iraq would be an unjust and unwise course of action.
2. The Military strikes against Iraq will further increase tension and instability in the world.
3. The Military strikes against Iraq is war against Islam and Muslims worldwide.
4. The Military strikes against Iraq will increase the suffering of Muslims and non-Muslims.
5. The Military strikes against Iraq means the most powerful military machine in history is to be turned once again against helpless civilians, whose murder will again be referred to on television as "collateral damage".
6. The Military strikes against Iraq clearly manifest the hypocrisy of the US and the British. They claim they want to prevent and to destroy Iraq's ability to create "weapons of mass destruction" yet they intend to use the latest high-technology weapons of mass destruction to do so. The US government is still the only one in world history to have used nuclear weapons against another country i.e. Japan, and has used chemical and biological weapons in its wars during colonial revolutions. Britain has also used chemical weapons against Iraq in the past during its colonial rule there.
7. The case against Iraq is always presented as the possibility of Iraq having nuclear, chemical or biological weapons, and these

unproven statements are then used to create a scenario about what could happen if Iraq used those weapons, asking the people to forget that the statements are built on mere speculation and imagination. What is not speculation however is the immense suffering the people of Iraq have been enduring due to the sanctions. During the past seven years, more than one million Iraqi civilians have died from insufficient food and medicine. According to a UNICEF 1997 report one million Iraqi children under the age of five are suffering from severe malnutrition.

8. We the undersigned firmly believe that the weak and the innocent cannot and must not pay for mistakes for which they are not responsible.

9. We the undersigned reiterate that there is no justification for continuing the blockade against the Muslims of Iraq, let alone renewing US and British military attacks.

10. We the undersigned confirm that the only Islamic Fatwa against this explicit aggression is Jihad. Therefore the message for the US and the British Governments or any other government of non-Muslim countries is to stay away from Iraq, Palestine, Pakistan, Arabia etc. or face a full scale war of Jihad which will be the responsibly and the duty of every Muslim around the world to participate in.

11. We the undersigned call upon the Muslims around the world including the Muslims in the USA and in Britain to confront by all means whether verbally, financially, politically or militarily the US and British Aggression and to do their Islamic duty in relieving the Iraqi people from the unjust sanctions.

List of Scholars, Intellectuals and Organisations who can provide further details of the divine evidences from the Quran and the Sunnah for the above Fatwa can be obtained from your local Mosque if it is independent from any Kufr government control or from the following organisations and bodies:

Sheikh Omar Bakri Muhammad, Prof. Muhammad Al-Mass'ari,, Makbool Javaid, Anjem Chouday, Al-Muhajiroun, The London School of Shari'ah, The Society of Converts To Islam, The Shari'ah Court in UK, The Society of Muslim Scholars, The Society of Muslim Lawyers, The Society of Muslim Doctors, The Society of Muslim Parents, The Society of Muslim Youth, The Society of Muslim Women, The Society of Muslim Teachers, The Association of Muslim Students, CDLR, The Islamic World League, The International Islamic Front, As-Sahwa Magazine, Al-Khilafah Newsletter, Maddad, The Islamic Tahreek For Pakistan, The Supporters of Taliban, The Islamic Verdict Newspaper, The Islamic Viewpoint Magazine, The Supporters of Hamas, Al-Muhajiroun Community Centre in Luton, Mujahid Distribution Network, Walthamstow School Of Shari'ah, Luton School of Shari'ah, Derby School of Shari'ah, Al-Khilafah Movement, Al-Muhajiroun Publications, The Islamic Society of Birmingham, The Islamic Society of Leicester, The Islamic Society

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of Bolton & Preston, The Islamic Society of Greenwich, The Muslim Cultural Society, The Party of The Future, The Islamic Society of Nottingham, The Islamic Society of Hounslow, The Defenders of The Faith, The Islamic Society of Bradford & Halifax, The Islamic Advise Bureau, The Islamic Society of Manchester, The Islamic Society of Sheffield, Al-Ansaar Society, The Islamic Society of Maidenhead, The Islamic Awareness Society, The Islamic Society of Kent, The Intellectual Society, The Islamic Heritage Society, The Islamic Society of Slough, The Islamic Society of Stoke-on-Trent, The Islamic Society of Luton, The Islamic Society of Crawley, The Islamic Society of Kent, The Islamic Society of Rochdale, The Islamic Society of Leeds, The Islamic Society of Derby, Al-Khialafah Newsletter etc....

London, Tuesday the 13th of Shawwaal 1418 HD 10 February 1998

THE VOICE, THE EYES & THE EARS OF THE MUSLIMS

Senator KYL. Mr. Jacobson.

PANEL CONSISTING OF BENJAMIN JACOBSON, PEREGRINE GROUP, MIAMI, FL; OMAR ASHMAWY, WASHINGTON, DC; AND STEVEN EMERSON, THE INVESTIGATIVE PROJECT, WASHINGTON, DC

STATEMENT OF BENJAMIN JACOBSON

Mr. JACOBSON. Thank you, Senator Kyl and members of the committee, for this opportunity to address this distinguished panel. I come here today as a private citizen, professional investigator, and a small business owner. I am not a representative of the coupon industry nor any corporation that utilizes consumer coupons as an advertising instrument. I have been asked to testify here today to recount a consumer coupon fraud operating throughout the United States which I had occasion to investigate.

First, let me provide some background on consumer coupons.

Coupons began in the United States in 1909, when C.W. Post first thought of the strategy to get more customers to purchase his products. The rest is history in the marketing of American business products. I am talking about those 25-cent-off coupons for your favorite cereal, candy bar, detergent, and even disposable diapers. Due to the competitive nature of business, more than 700 public and private corporations offer coupon discounts for their products. In many ways, consumer coupons represent a third currency in the United States. After the U.S. currency and illicit drug money, consumer coupons generate more than \$8 billion annually in transactions.

Consumer coupons are transacted across the many cash register counters of major supermarkets in America, in America's urban cities, and transacted across the counters of small convenience stores in suburbia. To many of us sitting here today, the consumer coupon is nothing more than a colorful insert in the Sunday morning papers. To the corporations, those inserts represent millions of national marketing dollars. To terror organizations, hiding in our communities, the inserts mean financing, here and abroad. It represents more than \$150 million diverted to the cause.

In 1997-1998, A.C. Neilson Clearing House, the Nation's leading consumer coupon clearing house, asked that our corporate security and investigative organization begin an investigation to develop information and collect evidence for criminal prosecution against a network of individuals operating a coupon fraud organization in the New York metropolitan area. Before I explain the investigations, let me give you the necessary background on the coupon redemption process.

To illustrate, the local grocery store on the corner must register with a retail coupon clearing house. This registration process requires filing a document, verification by the clearing house that the store exists, then providing an account number for computerized tracking of submissions and payments for the coupons. In many cases, NCH being the leading clearing house, would subcontract smaller clearing houses to accept coupons on their behalf. The coupons are submitted, often by U.S. mail or private carrier, to the clearing house for processing. The coupons are counted, sorted by

category, then accounted for under the customer's account number. A check is generated and mailed to the store owner, who then deposits the check into his business account.

That is a quick study on the legitimate coupon submission process. However, to the networks that we are examining here today, the process is different and the rules are circumvented. The offenders in this fraud network would purchase bulk inserts from recyclers, newspaper distributors, and even the small newspaper stands that sell the Sunday morning papers. Recruits, usually women with small children, college students, and even high school students, are hired to clip the coupons. The coupons are then artificially aged or worn to appear similar to the coupons dragged from the bottom of grandma's pocketbook. The coupons are then sorted by product, grouped for shipping by store account number, and packaged, usually in shoe boxes. They are sent in bulk to the targeted clearing house via UPS, instead of U.S. mail, since the operatives hope to minimize their exposure to Federal mail fraud statutes.

To begin my story, I will start with a coupon fraud investigation in Florida in 1987 and 1988. NCH and their agents had been working with the U.S. postal authorities, the Broward and Dade County Sheriff's offices to collect documentation and present a criminal case of fraudulent submission of coupons. Little did NCH or its investigators, the Postal Inspection Service, or the Sheriff's Departments expect what they discovered.

Senator KYL. Mr. Jacobson, we are going to have to ask you to summarize this in about 5 minutes. I know that cuts down your testimony.

Mr. JACOBSON. There was a tape, Senator. Here it is.

[Videotape shown.]

Mr. JACOBSON. Moving to America's heartland, the Midwest, from St. Louis to Madison, WI, an active network of grocery storeowners were creating havoc in an organized coupon fraud. One of its leaders, Zion Isa, was identified as a cell leader of the Abu Nidal network. During his coupon fraud activities, the regional task force of law enforcement officers, NCH agents, Secret Service, and postal inspectors gather information about the group's activities. Not only were they active in fraudulent coupon submission, but also hijacking trucks, sale of stolen food stamps, and stolen goods. Unfortunately, the task force was dismantled with few storeowners prosecuted, and the fraud activity continued to flourish.

Incidentally, 3 years after having been identified as being involved in coupon fraud, Zion Isa murdered his 17-year-old daughter in his home, with the help of his wife. The reason for the murder was that the daughter was going to expose him to authorities, and he couldn't accept her assimilation into our American culture. Her murder was caught on audiotape.

[Videotape shown.]

Mr. JACOBSON. Returning to New York, in 1989 through 1992, investigation had identified a network of coupon transactions that were linked in a similar fashion as the Bahour and Isa network. These were individuals with cultural ties to the Middle East. At the time, the players were more than just a fraudulent coupon

group but, rather, a network of money lenders, storeowners, and illegal banks operating in the New York metropolitan area.

The primary force in this network was Radwan Ayoub, a Palestinian living in the United States, who had established a network of stores in New York, New Jersey, and Pennsylvania which were later identified as having association with persons identified as terrorists of the World Trade Center bombing. Many of the stores that Ayoub enlisted were owned and controlled by Middle Eastern businessmen who were willing to participate in schemes which defrauded American businesses. Some of the stores were located in Brooklyn, New York, others in Jersey City, underneath and next to the mosque where Sheik Rahman was identified.

Ayoub and associates would solicit storeowners for their coupon submission business. Take a small minimart, which normally would submit \$200 to \$300 a month in coupons. Once Ayoub came on the scene, the submissions increased by the thousands. The storeowners didn't see the coupons. They just got the checks. In many cases, they borrowed money or agreed to leasing stores for a monthly fee by the Radwan network. They used the coupons to pay the debt to these loan networks, sometimes requiring a usurious rate of more than 49 percent interest per month.

At one particular location, 7912 Fifth Avenue, Brooklyn, initially identified as Hamada Video, a storefront was observed that had no groceries, only video rentals. This location was most interesting because they weren't submitting many fraudulent coupons but, rather, the storefront was used as a meeting point for coupon submissions by Ayoub and his coconspirators. Both Radwan and Ibriham Abu-Musa, his coupon mailer, worked in a local livery private car service with another Hamada Video employee, Mahmud Abouhalima. In fact, Abouhalima resided in the upstairs portion of the building above Hamada Video and regularly conducted business in the store itself. Of course, Abouhalima is best known as the blind sheik's driver who was a primary conspirator in the World Trade Center bombing and is serving 240 years in a penitentiary for his participation.

I am disappointed to report that after more than 5 years of tracking, documenting, and formulating a strategy for criminal prosecution in this New York scheme, I was unable to enlist the substantive aid of any law enforcement agency or prosecutor's office. I was told this was due to understaffing or lack of prosecutive appeal. This was in spite of the fact that during this period hundreds of stores, businesses, and individuals were identified. Perhaps had law enforcement successfully intervened, perhaps the tragedy of the World Trade Center bombing, with its precious loss of life, could have been averted.

Today, as I understand it, the fraud schemes continue unabated, unchallenged, and facilitated by computers and the Internet.

Thank you, Senator.

[The prepared statement of Mr. Jacobson follows:]

PREPARED STATEMENT OF BENJAMIN JACOBSON

Thank you Senator Kyl and members of the committee for this opportunity to address this distinguished panel. I come here today, as a private citizen, a professional investigator, and a small business owner. I am not a representative of the Coupon Industry, nor any corporation that utilizes consumer coupons as an advertising in-

strument. I have been asked to testify here today to recount a consumer coupon fraud operating throughout the United States which I had occasion to investigate.

First, let me provide some background on consumer coupons.

Coupons began in the United States in 1909, when C.W. Post first thought of the strategy to get more customers to purchase his products. The rest is history in the marketing of American business products. I'm talking about those 25 Cent off coupons for your favorite cereal, candy bar, soda, soap, detergent and even disposable diapers. Due to the competitive nature of business, more than 700 public and private corporations offer coupon discounts for their products. In many ways, consumer coupons represent the third currency in the United States. After U.S. currency and illicit drug money, Consumer Coupons generates more than 8 Billion dollars annually in transactions.

Consumer coupons are transacted across the many cash register counters of major supermarkets in America's urban cities and transacted across the counters of the small convenience stores in suburbia. To many of us sitting here today, the consumer coupon is nothing more than the colorful insert in the Sunday morning papers. To the corporations, the inserts represent millions of national marketing dollars. To terror organizations, hiding in our communities, the inserts mean financing, here and abroad. It represents more than \$150 million diverted annually to the cause.

In 1987-8, A.C. Neilson, NCH, the nations leading Consumer Coupon Clearing House asked that our Corporate Security/Investigative organization begin an investigation to develop information, and collect evidence for criminal prosecution against a network of individuals operating a Coupon Fraud organization in the New York metropolitan area. But before I explain the investigations, let me give you the necessary background on the coupon redemption process.

THE COUPON REDEMPTION PROCESS

The consumer coupon industry manages billions of coupon submissions from retail stores throughout the United States. To illustrate, the local grocery store on the corner must register with a Retail Coupon clearing House. This registration process requires filing a document, verification by the Clearing House, that the store exists, then providing an Account Number for computerized tracking of submissions and payments for the coupons. In many cases, NCH being the nations leading clearing house, would sub-contract smaller clearing houses to accept coupons from NCH clients. The coupons are submitted, often by U.S. Mail or private carrier to the clearing house for processing. The coupons are counted, sorted by category, then accounted for under the customer's account number. A check is generated and mailed to the store owner, who then deposits the check into his business account.

That's a quick study on the legitimate coupon submission process. However, to the networks that we are examining today, the process is different and the rules are circumvented. The offenders in this fraud network would purchase bulk inserts from recyclers, newspaper distributors and even the small newspaper stands that sell the Sunday morning papers. Recruits, usually women with small children, college students and even high school students, are hired to clip the coupons. The coupons are artificially aged or worn to appear similar to the coupons dragged from the bottom of grandma's pocketbook. The coupons are then sorted by product, grouped for shipping by store account number, and packaged, usually in shoe boxes. They are then sent in bulk to targeted Clearing House via UPS, instead of U.S. Mail, since the operatives hope to minimize their exposure to Federal mail fraud statutes.

THE INVESTIGATION

To begin my story, I'll start with a coupon fraud investigation in Florida, during 1987-8. NCH and their agents had been working with the U.S. Postal authorities, the Broward and Dade County, Florida, Sheriff's Office to collect documentation and present a criminal case of fraudulent submission of coupons. Little did NCH or its investigators, the Postal Inspections Service or the Sheriff's Departments expect what they discovered. (go to the Bahour tape) Postal Inspectors, operating in an undercover capacity, met with Adnand Bahour, a Palestinian operating several grocery stores with his family in the Hollywood, North Miami, Florida area, Bahour was more than a grocery store owner—he was a kingpin in the national terror network creating money laundering and financing for the PLO. By his own admission, Bahour was caught on video tape, detailing to undercover operatives, that he is the nephew of George Habash, the leader of the Palestinian Liberation Front. During this investigation and the raid on the meeting hall of this network, more than 72 individuals from throughout the United States gathered in Hollywood, Florida, to further their fraudulent coupon distribution network. This national network was no different

than the infrastructure which was exposed when New York State Troopers tripped on the Application meeting of Organized Crime in 1959.

During the Hollywood raid, documents of PLO activities were seized and records of money laundering were found. As a result, the Bahour network was disrupted, but unfortunately not broken. Some of the suspect in the Bahour case were prosecuted locally, other disappointingly released. After all, as I've heard all too often from Prosecutor's throughout America's major cities, "this is not guns, it's not drugs—it's coupons and those rich companies can afford to lose a little."

Moving to America's heartland, the mid-west, from St. Louis to Madison, Wisconsin, an active network of grocery store owners were creating havoc in an organized consumer coupon fraud network. One of it's leaders, store owner Zion Isa, was identified as a "cell leader" of the Abu-Nidal terror network. During his coupon fraud activities, a regional task force of local law enforcement officers, NCH agents, Secret Service and Postal Inspectors were gathering information about the group's activity. (go to ISA overhead) This task force not only identified the principals of the organization, but wrote a chart which linked the stores and store owners to the Abu-Nidal terror network. Not only were they active in fraudulent coupon submission, but also hijacking trucks, sale of stolen food stamps, and stolen goods. Unfortunately, the task force was dismantled with few store owners prosecuted and the fraud activity continuing to flourish. Incidentally, three years after having been identified as being involved in coupon fraud, Zion Isa murdered his 17 year old daughter in his home, with the help of this wife. The reason for the murder was that the daughter was going to expose him to the authorities and he couldn't accept her assimilation into our American culture. Her murder was caught on hidden audio tape by the FBI. (go to the video tape)

Returning to New York, by 1989 through 1992, investigation had identified a network of coupon transactions that were linked in a similar fashion as the Bahour and Isa network. These were individuals with cultural ties to the Middle East. At the time, the player were more than just a fraudulent coupon group, but rather a network of money lenders, store owners and illegal banks and money wire rooms operating in the New York metropolitan area.

The primary force in this network was Radwan Ayoub, a Palestinian living in the U.S., who had established a network of stores in New York, New Jersey and Pennsylvania which were later identified as having association with persons identified as terrorists of the World Trade Center bombing. Many of the stores that Ayoub enlisted were owned and controlled by middle eastern businessmen who were willing to participate in schemes which defrauded American businesses. Some of the stores were located in Brooklyn, New York others in Jersey City, New Jersey, underneath and next to the Mosque, where Sheik Rahman was identified.

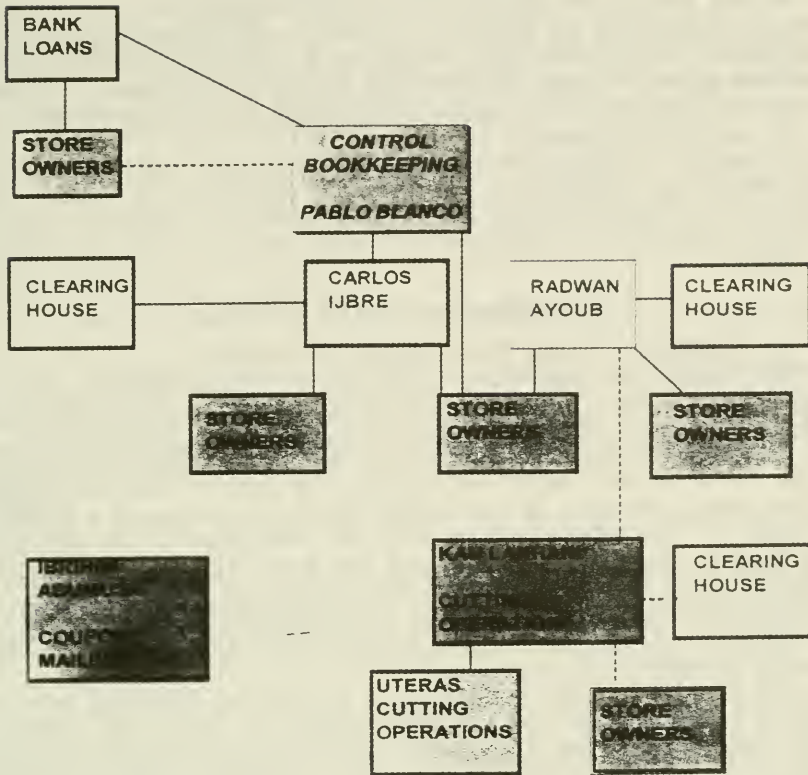
Ayoub and associates would solicit store owners for their coupon submission business. Take a small mini-mart, which would normally submit \$200-300 in coupons monthly, once Radwan Ayoub came on the scene, the submissions increased by the thousands. The store owners didn't see the coupons, they just got the checks. In many cases, they borrowed money, or agreed to leasing stores for a monthly fee by the Radwan network. They used coupons to pay the debt to these loan networks, sometimes requiring a usurious rate more than 49 percent interest per month.

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I'm disappointed to report that after more than five years of tracking, documenting and formulating a strategy for criminal prosecution in this New York scheme, I was unable to enlist the substantive aid of any law enforcement agency or prosecutor's office. I was told this was due to under staffing or lack of prosecutive appeal. This was in spite of the fact that during this period, hundreds of stores, businesses and individuals were identified. Had law enforcement successfully intervened, perhaps the tragedy of the World Trade Center bombing with its previous loss of life could have been averted.

Today, as I understand it, the fraud schemes continue, unabated, unchallenged, and facilitated by computers and the internet.

ORGANIZATION CHART



Senator KYL. Mr. Jacobson, thank you very much for shortening that testimony, but it is powerful testimony and it raises a lot of questions that we are going to have to pursue.

It is a pleasure to introduce our next witness, Omar Ashmawy, who is appearing in place of his father, Seif Ashmawy. He had originally been scheduled to testify at this hearing, but tragically, he was killed in a car accident last month. He had been a fervent voice of political and religious moderation in the Muslim community and will be missed.

I want to emphasize how much we appreciate your willingness to testify, Mr. Ashmawy, and we wish you and your mother the best as you both continue the important work of political moderation within your own community. And thank you for being with us today.

STATEMENT OF OMAR ASHMAWY

Mr. ASHMAWY. Thank you very much, Chairman.

My father was Seifeldin Ashmawy, a Sunni Muslim and an American citizen who migrated from Egypt to the United States in 1969. One month ago yesterday, he was killed in a car accident.

He made his life here in America. He was a scientist by profession, but a humanitarian and a scholar by nature. Over the quarter of a century he spent in the United States, he witnessed a dynamic change in the Muslim community: the emergence of an extremist movement that began to threaten the foundation of his faith. He felt obligated to do something about this danger.

He lectured, trying to reverse the ideologies of the Muslim extremist movement, fighting the misconception that the religion was one of violence and intolerance.

He organized a group of Muslims, intellectual Muslims, who believed in moderation and authentic Islam and called the organization the Peace Press Association. He published a monthly newspaper called The Voice of Peace that reflected their moderate views.

He never accepted any support from any country or political or religious organizations, placing great value on the independence of his views and that of the newspaper. On numerous occasions, he publicly denounced terrorism and extremism in any form, political or religious. He believed that their actions of terror were a departure from the ethnic and religious morals that he and the majority of Muslims believed in. For this, extremists threatened his life.

Within my father's own New Jersey community, he was involved in openly confronting Sheik Omar Abdel Rahman before the World Trade Center bombing, publicly debating the sheik and his followers. My father risked his life by taking the public stand that he did, and he faced the indescribable hardship of living under the threat of death. However, he believed strongly in his faith and in peace. He chose his path willingly to explain to Muslims and non-Muslims the authentic Islam, which loves and respects the life of every human being.

My father risked his life to defend and protect his country, the United States of America, and to defend his faith, Islam.

I must emphasize that Islam in spirit and in practice is a religion of inclusion, of peace, and of mercy. Its followers are taught

to be kind and tolerant to all people, regardless of race, color, ethnicity, or religion. Perhaps more than any other faith, Islam can be said to truly propound a universal philosophy.

In no way is Islam a religion of the sword, and in no way is it inherently anti-Western. It is a universal faith with believers on every continent and nearly every nation in the world. Therefore, those who promote Islam as a narrow religion of violence, bigotry, and hatred profoundly misrepresent the faith. The doctrines they espouse are wholly incompatible with the teachings of Islam.

Extremism by definition is a force contrary to freedom, liberty, and justice. They believe that they are justified in attempting to force their belief systems on others. Islamic extremism is no different. In their eyes, moderate Muslims who are disgusted by the blood and pain these extremists cause are labeled as renegades of Islam, nonbelievers, enemies of the faith.

They accused my father of this, and perhaps I, too, may be accused of being a traitor. Within this extreme movement, as with all types of extremism, there is only room for one set of thoughts, one opinion, and one vision. Extremism perhaps poses its greatest danger to the Muslim community. It is the threat to freedom and liberty of the community and, thus, to the very community itself. For what community can survive staunch intolerance and lack of free thought?

As an American and as a Muslim, I find this repugnant and disgusting.

It is essential that any focus on Islamic extremism take into account the larger context of Muslim moderates. Otherwise, further alienation of American Muslims will result, reinforcing an unfortunate belief that America is only interested in weakening Islam.

Mr. Chairman, Senator Feinstein, my father devoted his life to the moderate Muslim voice, only to discover that few in the media or the Government were concerned about how extremism affected Islam's majority, moderate Muslims. They seem to forget that the extremists are but a small, albeit a loud, minority among a vast sea of moderates who believe in the authentic teachings of Islam. I urge you not to forget this fact.

If it is security and peace that we are searching for, then the moderate voice of Islam must be allowed to speak. It is in that voice, the voice of my father, the voice with which I speak to you today, that we will find it.

Thank you.

[The prepared statement of Mr. Ashmawy follows:]

PREPARED STATEMENT OF OMAR ASHMAWY

I. INTRODUCTION

My father, Seifeldin Ashmawy, was a Sunni Muslim and an American citizen who migrated from Egypt to the United States in 1969. Just over one month ago, he was unexpectedly killed in a fatal car accident.

He made his life here in America—he got married and had a son. He was a scientist by profession, but a humanitarian and a scholar by nature. Over the quarter of a century that he spent in the United States, he witnessed a dynamic change in the Muslim community—the emergence of an extremist movement that began to threaten the foundation of his faith. He felt obligated as a Muslim, and as a person, to do something about this danger.

He studied Islam and other religions extensively and began giving lectures in synagogues, churches and universities about Islam—trying to reverse the ideologies of

the Muslim extremist movement. He endeavored to promote the true Islam, fighting the misconception that the religion was one of violence and intolerance.

He organized a group of intellectual Muslims who believed in moderation and authentic Islam and named the organization the Peace Press Association. Under the auspices of this organization, he published a monthly newspaper, *The Voice of Peace*, in Arabic, English and Spanish, that reflected their moderate views. Currently, *The Voice of Peace* is being distributed in 10 states.

He was careful never to accept any support from any country, or political or religious organizations, placing great value on being able to assure readers that his views and that of the paper were totally independent. He held to this principle, even when it meant paying the costs of the newspaper out of his own pocket.

At about the same time as the inception of the *Voice of Peace*, my father began to appear monthly on the WABC radio program, *Religion on the Line*, representing the moderate voice of Islam to over one-half million listeners. For many of these listeners, his monthly appearances were their first and only positive introduction to Islam—juxtaposed against the negative attention given by the American media to the activities of Muslim extremists.

About five years ago, my father took part in mission for peace to the Middle East with an inter-religious group. He met with political leaders in Egypt, Jordan, Syria, West Bank and Israel and reached out to the common citizens in each country, explaining to them the importance of peace to all of us.

On many occasions he publicly denounced terrorism and extremism in any form—political or religious. It was his opinion that extremists among the Muslims are not motivated by religion, but by their own political greed. He also firmly believed that their actions of terror were a departure from the ethnic and religious morals in which he, and the majority of Muslims, believed. The senseless killings of civilians were abhorrent to him as a Muslim and as a human being.

He sincerely believed in a just peace in the Middle East. He denounced the acts of organizations, such as Hamas, as well as the collective punishment carried out by the Israeli government against all Palestinians, regardless of their guilt or innocence. In his opinion, peace would only be achieved when both sides truly accepted one another as equals, and could deal with one another in a fair and just manner.

Within my father's New Jersey community, he was involved in openly confronting Sheik Omar Abdul Rahman before the World Trade Center bombing, publicly debating the Sheik and his followers. My father risked his life by taking the public stand that he did, and he faced the indescribable hardship of knowing that threats had been made on his life. Yet, he continued with the work to which he had devoted himself.

In a past appearance before another Senate hearing, he stated that "by appearing before you today I am placing my life, as well as that of my family, in jeopardy; since I will be accused by the extremists as a traitor to Islam." However, he believed strongly in his faith and in peace. In that same statement, he made clear that he had "chosen [his] path willingly to explain to Muslims and non-Muslims the authentic Islam, which loves and respects the life of every human being." It was this belief—and the support of his loving wife—that gave him the courage to take such risks despite no hope of reward.

During his life, my father fought to defend and protect his country, the United States of America; to defend his faith; and to speak out for the moderate voice of the world's fastest growing religion, Islam.

Islam is a religion of peace, tolerance, and moderation. It is inclusive of all people, regardless of race or ethnicity. It is the only religion that accepts both the Torah and the Bible, along with the Koran, as the authentic words of one God for all people. Islam acknowledges and reveres all the prophets of God, including Adam, Noah, Abraham, Moses, David, Jesus, and Mohammed (*Peace be upon them*); recognizing all of them as equals. A Muslim is asked only to believe in one God, to do good deeds with good intentions, and to help those in need. In no way is Islam a religion of the sword; nor is it inherently anti-Western. It is a faith of mercy—teaching that it is far better to forgive a person accused of wrong doing than to pass judgement on them.

I wish to emphasize that Islam is a religion of peace—forbidding Muslims from taking an offensive stance in a conflict; instructing its followers only to fight if attacked. It is a universal faith with believers on every continent and nearly every nation in the world. Therefore, those who promote Islam as a narrow religion of violence, bigotry, and hatred profoundly misrepresent the faith.

Mr. Chairman and distinguished committee members, my father devoted his life to the moderate Muslim voice only to discover that no one, neither the media nor the government, was concerned about how extremism affected Islam's majority—moderate Muslims. They seemed to forget that the extremists are but a small, albeit

a loud, minority among a vast sea of moderates who believe in the authentic teachings of Islam.

I am here, in my father's, and my own, name to tell you that the mask of religion, which these extremists wear, must be torn from their faces and they should be recognized for what they stand for—greed and power.

The moderate voice of Islam must be allowed to speak. It is in that voice—the voice of my father—the voice with which I speak to you today—that we will all find security and peace.

II. ISLAMIC EXTREMISM

The face of the Muslim extremists has been modified in the last three decades. Their operation has extended from the local to the international. Their activities have changed from small skirmishes to what can be described as a militia *jihad*. Their actions were initially directed against foreign occupation, now they terrorize their own communities. Their agenda began with religious motivation and has transformed, today, into political ambition.

Their tactics, beginning with the initial birth of extremism in Islam which occurred in 657 A.D., have never altered. They are the same today as they were over 1,300 years ago. The extremists mobilize people by slogans and arouse them by fear. They attack their Muslim brethren who do not agree with their motivation by branding them infidel, "*Kaffara*, (sing. *Kaffer*)". The non-Muslims are the enemy of God, "*A'adau Allah*," who are living in a corrupted Western society with a hidden agenda to destroy Islam.

Throughout the past thirteen centuries, the Islamic extremist movement, with its peaks and valleys, has had a multifaceted agenda, but always one objective—to rule the Muslim world.

THE OBJECTIVES OF THE EXTREMISTS

(1) *To establish an Islamic theocratic government*

Although neither the Koran, the Muslim's holy book, nor the Prophet of Islam indicated or recommended any type or style of a political system for the Muslim community, the ideology of the extremist movement revolves around the creation of a theocracy.

The government in Islam has never been theocratic. From the very beginning of the history of Islam, the Muslim rulers never professed that they were infallible. They never asserted that they were the only source to interpret the Koran. The Muslim scholars and judges, who held a respected status in the state, were the initiators of this thought.

The extremists describe the current governments as secular, believing that they are applying the Western code rather than the Islamic law. The word secular was borrowed early this century from the Western vocabulary and was translated to Arabic as "*A'almani*". It has been used by the extremists to describe civil government in the Islamic world. The extremists use the word "*A'almani*," or secular, as a synonym to the word "*Kaffer*," or infidel. They use it to defame and taint the current governments as Western collaborators. It is their most popular slogan to instigate people against their civil institutions.

(2) *To impose Islamic law, "The Shar'ia"*

The Islamic law is the work of many Muslims scholars. They codified the Koran and the traditions of the Prophet. The moderate Muslims do not consider this specific work of the scholars to codify the Koran and the prophet's tradition to be untouchable, and they believe that it could be modified to suite the times and places. It is very important to emphasize that moderates do not believe in the modification of the Koran itself, only the legal codification developed by the scholars. All Muslims believe that the Koran was revealed, word for word, by God to the Prophet. However, the extremists reverse the moderate's call for a revision of the Shar'ia and represent it to the less educated citizens as if it is a call to modify the Koran. This is plainly not the case. The extremists on the contrary would like to apply the Shar'ia, as it was written in the seventh and eighth centuries, to the modern world of the late twentieth century.

(3) *To revive the Caliphate*

The Caliphate was abolished by Mostafa Kamal "Attatork" in 1925. The defeat of the Ottoman Empire in World War I gave him the opportunity to overthrow the last Sultan "Abdel Hamid," who was also the last Caliph. The extremists consider that the Caliphate represents the unity of the Muslim community under one ruler, the Caliph. Simultaneously, they also consider the Caliph a successor to the Prophet of

Islam. The moderate Muslims refuse this notion. They advocate the idea that the Caliph is a civil head of state and hold to the belief that there was no successor to the Prophet's heavenly inspired revelations.

The first Caliph, Abu Baker, was elected by the Muslim community after the death of the Prophet in 632 A.D. In his inaugural speech, he told the people that they had elected him, although he was not the best of them. He also said that if they approved of what he was doing they should help, however, if he strayed, they should correct him. This was the first civil institution after the death of the Prophet—a government by the people and for the people.

The extremists accuse the moderates who refuse the idea of reestablishing the Caliphate of blasphemy and of opposing the revival of Islam.

ORIGIN OF EXTREMISM IN ISLAM

The Shi'ites and the Kharijites

About 657 A.D. a conflict over who would rule the new Islamic Empire took place between *Ali*, the cousin and son-in-law of the Prophet Mohammed, and his rival, *Muawiya*, the Prophet's second cousin. The conflict ended with *Muawiya*'s victory.

During the conflict, *Ali* was obliged to acquiesce to a settlement by arbitration; however, a group of his followers did not accept the agreement on the grounds that the result of the battle should not have been decided by human intervention. Instead, they determined to fight until God judged by victory or defeat. The result of the war would be the final arbitration and judgment of God.

Their opinion was based on misinterpretation of a portion of Koranic verse ("Judgement belongs to God alone." Sura 4:57.). The entire verse was exclusively about the People of the Book, Jews and Christians, who refused to apply God's commandments. The verse was explaining that in a dispute the commandments of God should lead the people to the correct judgement.

These dissenters seceded from *Ali*'s camp and became known as *Kharijites* or "Seceders." They declared both leaders, *Ali* and *Muawiya*, to be infidels and deserving of death. This was the beginning of a schism in Islam.

A member of the *Kharijites* killed *Ali*, and they continued to war against *Muawiya* and his successors on different occasions. It is believed that this is one of the reasons why *Muawiya*'s dynasty, the "*Omayyads*" (660 to 750 A.D.), became weak and was eventually overthrown by the "*Abbaside*" dynasty (750–1258 A.D.).

The doctrine of the *Kharijites* has never died, and has been embraced by many extremists and anarchists in Muslim countries. Those who adhere to that doctrine still raise the banner of "*Judgement belongs to God alone.*" However, the word "*judgement*" took on a different meaning and began to mean *Rule* exclusively, including all its political attributes.

On the other hand, the followers of *Ali* after his assassination in 661 A.D., claimed that *Ali* and his line were the only ones who should rule the Muslim community. This group of supporters became known as the *Shi'ite* of *Ali*. The word "*Shi'ite*" means "*party*" or "*supporter.*"

From the early part of Islamic history the *Shi'ite* were oppressed. Since the *Shi'ite* of *Ali* or the "*party*" of *Ali*'s main objective was to overthrow the central government, they became the enemy of the state. Faced with continuous persecution and execution, the movement went underground. The underground movement became militant and violent. The simple idea of supporting *Ali* and his line was later complicated when it became philosophized and theorized.

The *Shi'ite* are divided into many factions, but the two main groups are the "*Twelvers*" (mainly in Iran) and the "*Ismailites*" (the majority in Pakistan and India). The *Shi'ite* population is about 100 million; Iran, being the stronghold and the most populous country among the *Shi'ite* communities, assumed their leadership.

The *Shi'ite* embrace martyrdom, following the example of *El Hussein*, the son of *Ali* and grandchild of the Prophet, who was killed in his attempt to overthrow the central government. The hidden agenda of the *Shi'ite* is to spread their doctrine and attempt to install the lineage of *Ali* to lead the Muslim community.

The majority of the ideology of extremism has been derived from these two groups. Furthermore, both ideology have meshed together to the point that it is sometimes difficult to rationalize their tactic and policies.

ELEMENTS THAT AFFECT THE EXTREMISTS' MOVEMENTS

(1) State sponsorship

Until about 1952, small local groups with little or no outside support composed the extremist movement. The largest group was the Muslim Brotherhood. It was founded in Egypt in 1928 by Hassan El Banna. When Abdel Nasser came to power

in Egypt in 1953, he promoted his Pan-Arabism policies. The Pan-Arabism policies became very popular among the Arabs. The Saudis, fearful of this policy, began to financially support the Muslim Brotherhood to destabilize Nasser's regime.

The Saudis fostered the idea of Pan Islamism as a counter policy to Nasser's Pan Arabism. They also tried to assume the roll of leadership and protector of Islam, which Egypt had enjoyed for a long time. In order to assert their leadership, the Saudis, intentionally or unintentionally, found themselves obliged to finance many of the extremist groups.

The Islamic extremist movement expanded out of Egypt in the 1950s and '60s. The growing patriotism and the call for independence by Arab countries gave rise to this strong conservative and, later, extreme movement.

Libya, after Kaddafy came to power in 1969, and Iran, in 1979, followed the footsteps of the Saudis in their support of extremism.

As a result of the increase in state support, the extremists began to emerge from a limited, domestic movement to international terrorism. They became the vengeful arm of these states, such as the explosion in December 21, 1988 of Pan Am 103 over Lockerbie, Scotland; the bombing of the U.S. army barracks in Beirut, Lebanon; the bombing in Riyadh, Saudi Arabia in November 1995; and the June 1996 bombing of the El Khobar compound.

(2) *The Ayatollah Khomeini and "Iran"*

The turning point in the extremist movement in the past two decades was the installation of the Ayatollah Ruhollah Khomeini government in February 1979 with the help of the USA under President Carter's administration. The structure of this theocratic government is based on the *Shi'ite* doctrine.

Contrary to the majority of the Muslims, the *Shi'ite* believe in a hierarchy of religious clergy with the Ayatollah Ruhollah being the highest. The main voice and interpretation of religious and non-religious matters is the opinion of the Ayatollah, the *Imam* (the Arabic word for leader). The *Imam* in *Shi'ite* doctrine is infallible and must be obeyed.

The Iranian government recognizes that Muslims hold the lineage of the Prophet close to their heart and camouflage their intention to expand their doctrine and influence by using this emotional tie of "*Ahl El-Beit*", the closet kin to the Prophet, to mobilize the public to spread their doctrine.

The government has mobilized and utilized the country's resources and media to achieve their goals. Their goal is to install other theocratic governments favorable to the *Shi'ite's* ideas and doctrines. They finance the extremist movement in other countries and provide a safe haven for its proponents. In addition, they train the extremist guerrillas, "*mujahedeen*," to destabilize the governments in other Muslim countries.

The extremists considered the installation of the Khomini government a leap to success for their movement. A theocratic government is in place and their dream can now be realized. The style of this government became the role model for the extremists.

(3) *The war in Afghanistan*

In 1978, the Soviet Union engineered a bloody military coup in Afghanistan and installed a communist government. The United States, fearing that the U.S.S.R. would have a stronghold close to the oil rich Gulf States, took an active role during the Ronald Reagan administration to drive the Soviets out of Afghanistan.

The CIA, with the support of the Reagan Administration, recruited some Afghanistan extremists and trained them in Pishawor, Pakistan. Pishawor became not only the training ground for the Afghani militants, but the gathering point for all extremists, such as Ramzy Youssef. Some extremists were recruited directly or indirectly by the CIA from other Muslim countries, such as Abed Allah Azzem, Shiek Omar Abdel Rahman, currently imprisoned in the U.S. for the World Trade Center bombing, and Mustafa Shalaby, former head of the Brooklyn, New York office to recruit the mujahedeen. Shalaby was mysteriously killed and his killer is still at large.

As a result of the U.S. involvement, these extremists were well trained and organized. They were trained in the use of advanced weapons, sophisticated communications and guerrilla warfare. They became extremely knowledgeable in military tactics and codes. In fact, they became a strong, subversive military force.

The idea which was instilled in them—that they were fighting for God and in the name of God—united all the recruited fighters and formed a cohesive fraternity of all these extremists. Their battle cry or their slogan in their fight against the Soviets was "Allah Akbar" or God is Great.

These well-trained extremist guerrillas, or mujahedeen, with America's assistance, were able to overthrow Communism and defeat the Soviets. However, this victory was interpreted within their own community as a sign that they could conquer anything if they continued fighting for God.

After the overthrow of Communism in Afghanistan, the extremists were abandoned by the United States and left without a common goal. They returned to their homelands, however, with the belief that they were invincible. Their dream to establish theocratic governments in their own countries became stronger, supported with their new military training. It was the return of the Afghan fighters to their countries of origin that brought a new wave of extremism to many nations.

(4) Infiltration of extremism into the West

The liberal policies of the West, primarily France, Germany, England and the United States, allowed the extremists from the Middle East to establish bases of operations in their countries.

The extremists infiltrated these countries through immigration or political asylum. They have taken advantage of the democratic and liberal atmosphere to organize and form a nucleus of leadership. From these new bases, they attempt to achieve their political agendas in their home countries.

The easily obtained western technology and free open market offers them a better and more effective way to direct and finance their followers. The tolerant policies of the West facilitate the creation of safe havens for their supporters and fugitives.

Utilizing all the current technology available in communications has helped the extremists to have strong, successful, effective and influential underground activities.

The quick and immediate transfer of monies has also enhanced the power of the extremists, giving them the opportunity to expand by financing and supporting new member into the inner circle and to hijack established Islamic institution, or establish new ones.

The protection the extremists receive in the Western countries under the auspices of freedom of speech and association has unfortunately made them powerful. In addition, their activities are not necessarily illegal since their conspiracies are not toward the host country, but towards the countries of their birth.

(5) The East vs. the West

The aftermath of the Crusades became evident in the attitude of Muslims towards the West. Muslims became distrustful of the West's intentions and policies. The West, in turn, became aware of these suspicions when they occupied the Middle East countries in the Eighteenth Century. England and France, the main players at the time, understood the economic and the strategic location of the Middle East and attempted to westernize and modernize the occupied countries.

The Muslim conservatives assumed that the intention of these nations, beyond the movement towards westernization, was to demoralize Islam. Furthermore, the differences in lifestyles between the two cultures made it even more difficult for the conservatives in the Middle East to accept the new changes.

The occupation of the Muslim countries by the West categorized them as the enemy and the oppressor. The extremists used this perception as a motivation to fuel hatred and antagonism towards the West, and perpetuated and strengthened the image of the West as the enemy of Islam.

The creation of Israel in 1948, and the failure of the West to achieve a just peace in the Middle East, further eroded the image of the West; providing the extremists more opportunities to portray the West, and the U.S. in particular, as the "Great Satan."

Although extremists consider the western civilization corrupt, they take advantage of the democratic principles to expand and protect their movement, while simultaneously pointing their guns towards them. They feel that by terrorizing the people of these countries, it will lead their governments to exert pressure on their home governments to compromise and negotiate with them.

(6) Domestic causes

Nasser's successful coup against King Farouk in 1952, his popular Pan-Arabism policy, and his successful challenge to the West made him a hero in the Arab world. His support given to Algeria against France, enticing the people of Yemen, Jordan and Iraq to turn against England, and his efforts to turn other Arab countries against the United States all aided in his increasing popularity. His success in defeating an alliance sponsored by United States between Turkey, Iraq, Jordan, Egypt and Pakistan, "The Baghdad Alliance," made Nasser a model dictator for all other Arab countries.

But the failure of all the dictators to ease the poverty, bring victory to the battlefield, improve the economy, and generally elevate the standard of life for the people brought only frustration. This frustration was subsequently used by the extremists to agitate the people against the government and to expand their support.

Moreover, the liberal educational policy adopted in the Arab states permitted the underprivileged children, who were influenced the most by very conservative ideas, to attend colleges and universities. As a result, these students were easily attracted to and recruited by the extremist movement. Later, they infiltrate government offices and all other facets of life, and gave rise to ultra conservative notions.

THE SOLUTION

The problem of extremism cannot be resolved unless specific measures are taken. They include:

1. The moderate Islamic voice must be accepted, adopted and promoted by the local governments, as well as the international community, in order to counteract the vehement propaganda of the extremists. It is a known fact that the moderate Muslims far outnumber the extremists. By advocating the moderate position, the extremist movement will find itself an outcast in the Muslim community.

2. Some Western countries are attempting to apply the policy of "divide and conquer" among the Muslim community. On one hand, they help the extremist, and on the other hand, they are supporting the local government. This must be stopped. This policy will not succeed in the Muslim community since all Muslims consider themselves a part of a single foundation. The result of a "divide and conquer" policy will be a severe backlash, and it will bring hate and violence to the countries that initiate this policy.

3. It is imperative that we stop labeling the extremists with the prefix of Islamic and/or Muslim. These two prefixes antagonize the Muslim community and strengthen their suspicions towards the West's intentions, while at the same time, increase sympathy and solidarity towards the extremists. Labeling a Muslim Shi'ite or Sunni will also be counter-productive, since Muslims look upon the whole community as one. And they feel that the West is attempting to put a wedge among the Muslims.

4. Increase or enhance education among the public through publications and use of the media to explain that the ideology of the extremists is far from the fundamental teachings of Islam.

5. Recognition of the extremists gives them a political identity and increases their influence among the masses. Refusing to acknowledge them will reduce their influence and effectiveness in the community. As history has demonstrated, (both in Egypt and in Israel and Palestine), when the government aids and recognizes the extremists as an entity, the extremists will grow stronger and then will work against the government that helped to create it. An example of this is the extremists in the Egypt that killed Sadat, and Hamas which was aided by the Israel and now is beyond the control of Israel and the Palestinian Authority.

6. Isolate the head of state of the countries that sponsor and support extremism without applying embargoes that punish the people. Applying embargoes that hurt the common citizens will backlash and gives the extremists yet another opportunity to attack the West, allowing them to state that the West is trying to kill and destroy the Muslim people.

7. Comprehensive peace in the Middle East is essential to curb terrorism and extremism not only in the region, but throughout the world. This will improve the economic conditions in Middle East countries and give the governments time to focus on their individual domestic problems. It will also eliminate the slogans the extremists are using, either to show the ineffectiveness of their government to solve the domestic problems or to achieve a just solution to the Palestinian problem.

8. Another essential point to curb terrorism and extremism is the necessity to eliminate corruption among the governing Muslim leaders. This is a main source of discord among the people and an important tool in the hands of the extremists, who use its existence to gather support from the masses.

9. Cut the source. It is obvious that the sources that supply military and financial support to the extremist are known to the Western and Middle East Intelligence organizations. If the source is restrained and thwarted the extremist movement will suffer, and their growth and influence will be minimized to the point of ineffectiveness.

III. THE THREAT EXTREMISM POSES TO THE MUSLIM COMMUNITY

One could accurately say that the misconceptions and misunderstandings that plague the Islamic community are almost entirely the result of the extremist movement within Islam. The perception of Islam as a violent, intolerant, anti-western re-

ligion has been created by the minority extremist component of Islam and then perpetuated by the attention that they receive in the Western media and by other Western power blocks.

Islam, in spirit and in practice, is a religion of inclusion, of peace, and of mercy. Its followers are taught to be kind and tolerant to all people, regardless of race, color, ethnicity, or religion. Perhaps more than any other faith, Islam can be said to propound a truly universal philosophy that is accepting of all people, religions, and ideas. The Koran, the holy book of Islam, could not be more explicit in its command, "There shall be no compulsion in religion." This single line embodies the spirit of Islam—a faith that acknowledges and strengthens the nobility of the individual, while simultaneously embracing the importance and power of community.

Extremists have distorted this true image of universalism in the eyes of the world. In the United States, their acts of violence and fanatic intolerance have tragically marred the perceptions Americans have of Islam. Though the doctrines they espouse are wholly incompatible with the teachings of Islam, and run contrary to the very foundations of the faith and its traditions, these terrorists have managed to partially succeed in their goal to alienate Americans from the Muslim community—thus making leaders on both sides mistakenly believe that cooperation is, at best, a difficult venture. They have succeeded in making the American people unnecessarily wary of any association with Islam. This alienation and wariness is extremely harmful to both America and its Muslim communities—and to the Islamic world as a whole.

No good can ever come from blatant misconceptions of truth. The fear that has been generated by these extremist entities has given rise to an alarmist atmosphere in this country towards Islam and its followers. This fear has found a foothold in every aspect of American society—from the government down to the American people. Moreover, there has been no significant attempt by anyone in a visible public office to emphasize the fact that these extremists are acting contrary to Islam.

Extremism, by definition, is a force contrary to freedom, liberty, and justice. Islamic extremism is no different than any other form of ideological extremism. They believe that they are justified in attempting to force their belief system on others. In their eyes, moderate Muslims, who cringe at the blood and pain caused by such extreme elements, are considered renegades of Islam—nonbelievers and enemies of the religion. Within this extreme movement, as with all types of extremism, there is only room for one set of thoughts, one opinion, one vision. Extremism poses its greatest danger to the Islamic community—stifling its diversity and its multifaceted and multinational character. It is a threat to the freedom and liberty of the community, and thus to the very community itself; for what community can truly survive staunch intolerance and lack of free thought?

Islam is struggling with this extremist movement world-wide. In this country however, the difficulties faced by moderate Muslims are particularly unique. There is no question that moderate Muslims make up the vast majority of Muslims in this country and world-wide, with followers of extremist movements a fraction of the population. Yet, the amount of attention received by each group is inversely proportionate to its size. The media and other sources of public information concentrate excessively on the extremist element of Islam, and give little to no time to the moderate Muslim voice.

While this can be explained by pointing out that it is the extreme element who poses a conceivable danger and therefore somehow deserves the majority of the media attention, this answer does not take into consideration the full scope of the problem. It is this attention that Muslim extremists have been able to draw, to the exclusion of all else, that presents America and American Muslims with their most significant problem.

Unless the moderate Muslim voice is given sufficient attention and is allowed time and a significant forum, it is unreasonable to expect that voice to be able to overcome any extreme Muslim element present in this country. Moreover, the continued focus on Muslim extremists without properly placing them in the context of the larger Muslim community, will further alienate American Muslims by reinforcing a belief that America is only interested in weakening Islam. Allowing this belief to perpetuate would be, at best, an invitation for further misunderstandings on all sides—an event that would be detrimental to all.

In summary, Islam, perhaps the most misunderstood religion in the world, has suffered as much as its people from ignorance and foreign occupation. Islam, like the rest of the world, faces a new challenge, the rise of extremism; however, this challenge is not exclusive to Islam; it is being faced by every nation and every religion. It is a phenomenon which is altering the thought and action of every part of the world. It is a phenomenon which can conceivably lead to the fall of governments, deviate mankind from the course of God, and destroy many of the most cherished

democratic ideals. Islam is not a militant religion, but a religion of peace, mercy, and love for all people. Unfortunately, like everything else, when man uses something he distorts it. The religion of Islam is no exception. However, true Islam joins Judaism and Christianity in its call for love, mercy and justice.

As Americans we must never forget the value we place on freedom and liberty, and at no time can America, in its possible responses to extremism, allow the Muslim community in this nation or abroad to suffer any injustices. We must remember to place extremism in the context of the broader community. To do otherwise would only place this great nation in the same category as those very extremists we are trying to fight. Intolerance and injustice at the hand of any entity—even for an admirable cause—is repugnant to all that we as Americans, and I as a Muslim, hold to be true.

Senator KYL. Thank you very much for your testimony, and I must say that, for the record, we will have the complete written testimony that you have provided, and it is one of the most thoughtfully written and well-documented presentations that I have ever read with respect to Islam, and we very much appreciate having that as a part of our hearing record. So thank you very much.

Mr. ASHMAWY. Thank you.

Senator KYL. Our last witness, Steven Emerson, produced the award-winning documentary "Jihad in America," which provided a snapshot to the American people of the activities and operations of radical Islamic groups in the United States. Since that time, Mr. Emerson has continued his extensive research on the infrastructures, modes of operation, fundraising, recruitment, and criminal activities these radical groups use to support their activities as well as their connection to terrorist organizations. It is this portion of his research which Mr. Emerson will share with us today, and, again, I want to say that for our record you have provided us with an amazingly complete and well-documented statement which will be very important for future scholars as they review the record of this hearing and the subject as we deal with it in the future. So thank you very much for being here, Mr. Emerson.

STATEMENT OF STEVEN EMERSON

Mr. EMERSON. Good afternoon.

First of all, personally I would just like to state that I knew Seif Ashmawy for more than 5 years. He appeared in the film "Jihad in America." And when I found out a month ago that he had been killed in a car accident, it was a very, very disturbing day for me, and it has been since. And I am very pleased and quite touched by Omar's appearance here today. I think Seif would be very proud of what he has done here this morning and how he has delivered himself in such purpose and poise. I for one am touched myself. I just wanted to say that for the record.

The issue, as I see it, is the preservation and the maintenance and the emboldenment of a moderate Islam versus the growth of radical Islam. I have dedicated the last several years to sort of exposing the extremists. Unfortunately, those very extremists have issued threats against me as well. And I want to make the statement and I want to affirm what Omar said, that radical Islam does not equal mainstream Islam. The vast majority of Muslims do not support violence, but there is an extremist wing. And to the extent they are able to hide under the veneer of a false moderation or hide

under the veneer of a mainstream umbrella, they unfortunately tar the genuine moderates.

In the United States today, in the past 5 years since the World Trade Center, the whole panoply of radical Islamic movements has sprung, from the A to Z, from Hizbollah to Hamas, to Islamic Jihad. I have here a chart, a map, that shows a partial listing of the concentrations of different radical Islamic groups in the United States, and you will see, obviously, that the comprehensive inclusion of Islamic Jihad, Hamas, the Gamaa Islamiya, the Muslim Brotherhood, the National Islamic Front, all of these extremist movements have established strong networks of supporters, sometimes command and control, sometimes funding operations, very extensive political operations that essentially have rendered the United States a major center of militant Islamic activity worldwide.

Hizbollah has got operations in cells in Chicago, in Boca Raton, in Texas, New Jersey, Illinois, the Gamaa Islamiya in California, North Carolina, in Baltimore. The Muslim Arab Youth Association, which is effectively the de facto arm of the Muslim Brotherhood, has got chapters throughout the United States.

Hamas is the strongest organizational militant group in the United States with representation throughout virtually every other State, not necessarily in a formal form but certainly in terms of support. Millions of dollars have been raised through various networks, some legal, some not legal, but primarily there have been many legal mechanisms established during the last 5 years, primarily tax-exempt foundations, for "charities" that fund innocent—supposedly innocent, that is—religious and social programs of militant Islamic movements. The problem is that money is fungible, and the second problem is that sometimes the moneys get diverted from these charities.

For law enforcement, however, it is very difficult to trace the dollars that go into these groups, and out of the groups into the hands of the militants in the Middle East.

We in the United States should be very clear. We face not only a threat of violence from these groups present in the United States, but we allow our own allies to be attacked, to be violently attacked, from the safety of the United States. To the extent that moneys raised in the United States and support accrued in the United States enables suicide bombings in Israel or attacks on foreigners in Egypt or slaughtering of young Algerian moderate women who refuse to wear the veil, that is a terrible statement about what is going on in the United States.

We need to be very clear. The United States has great freedoms, and I am not suggesting here for one moment that we curtail any of the freedoms. Even the freedom to be an extremist is allowed. But I do believe that that line that is crossed into actual support of terrorism needs to be more aggressively pursued, and that means more intelligence and more resources, resources for the FBI, resources for the INS, and more hearings like this in Congress.

I do believe that some groups may not be legally prohibited, but to the extent that we can expose their activities, they will not be able to operate in the sunshine, and that sunshine, as Louis Brandeis once said, is the best disinfectant.

In the United States today, there are various problems associated with the operations of these groups. The most telling investigation today is in Tampa, FL, where the FBI, together with Customs, INS, the IRS, and other agencies, are investigating the creation and operation of the Islamic Jihad Command and Control Organization. It operated without any scrutiny and unimpeded for 5 years, between 1990 and 1995, under the unwitting and witting blessing of the University of South Florida in Tampa. It operated under "an academic research center" at the university. It allowed terrorists to come into the United States. It raised hundreds of thousands of dollars for the Islamic Jihad, and it promoted the Islamic Jihad by organizing the largest counterterrorist conferences ever held in the United States, in St. Louis, Chicago, and elsewhere.

In sum, I think that the United States has become, to coin a phrase, occupied fundamentalist territory. I believe that moderates are overwhelmingly represented by their numbers, but unrepresented by the leadership of the organizations. It is time, and I hope an opportunity, for people like Seif Ashmawy's son, young Omar, to assume the leadership in the moderate Muslim community.

Thank you.

[The prepared statement of Mr. Emerson follows:]

PREPARED STATEMENT OF STEVEN EMERSON

INTRODUCTION

The subject of today's hearing, the foreign terrorist threat in the United States, is one of the most important issues we face as a society today. With the advent of chemical and biological weapons, we now face distinct possibilities of mass civilian murder the likes of which have not been seen since World War II. The specter of terrorism carries with it the threat of violence aimed at targets merely because of their religious, ethnic or national identities. The threat of terrorism, particularly in the age of instant telecommunications, also carries a major psychological dimension—through an electronic multiplier effect that has the ability to inject fear and fright into the hearts and minds of tens of millions of Americans.

At the outset it is important to note several points about these hearings:

One. Foreign terrorists and extremists are no different than home grown terrorists and extremists. Terrorism is terrorism—no matter who carries it out. The threat from domestic terrorists who see the United States government from a paranoid lens is no less problematic than foreign terrorists who view us in the same manner. As evidenced by the Oklahoma City bombing, bombings of abortion clinics, and other acts of terrorism, the ultra right wing militia, the Christian Identity Movement, Arian Nations, and neo-Nazis are intent on inflicting murder and mayhem against innocent civilians.

Two. The absence of bombs going off more regularly should not lull us into a false sense of security. The presence of foreign terrorist groups means that they have the capabilities of launching attacks here and the ability, which they exploit to their maximum advantage, of using the United States as a springboard to launch attacks against our allies and friends. It is a matter of vital national interest to hold hearings on the presence of foreign terrorist groups on American soil. There are various groups in the United States tied to international and foreign acts of terrorism. This includes the offshoot of the militant Jewish Defense League known as Kahane Chai, the Irish Republican Army and militant Sikhs, among others.

Three. Terrorism does not develop in a vacuum. It requires intellectual, financial, and often religious sustenance and nurturing. The bombing of the World Trade Center for example, and the Oklahoma city bombing, sprang from a much larger communal constellation of like minded believers and supporters. The physical act of terrorism may appear to come out of the blue but in fact is almost always predicated in larger movements that justify such acts of terrorism as legitimate. And yet, by virtue of the great freedoms enshrined in our laws and constitution, most activities of extremist groups, including known terrorist fronts in the United States, are legal and protected. While some activities were made illegal in the 1996 Anti-Terrorism

Act, the vast majority of activities carried out by extremist groups remain protected because they fall—quite appropriately—in the category of free speech. Yet, such legal protections do not extend to protection from journalist inquiries or other public scrutiny. In fact, it is the prospect of this scrutiny that has assisted in the past in eradicating domestic extremist movements and unmasking those extremists under false facades. As Supreme Court Justice Louis Brandeis once said, “Sunshine is the law’s best disinfectant.” Thus, the public has a right to know and expect that an educational curriculum is not being secretly manipulated by foreign radicals, that journalists are not serving as witting or unwitting pawns of extremists, and that public and elected officials are not legitimizing militant groups.

Four. In any discussion of the threat of radical Islamic fundamentalism, it is imperative to point out that militant Islamic extremism is not synonymous with mainstream Islam. Those who engage in extremism today are simple practicing their totalitarian interpretation of the religion. The vast majority of Muslims do not support in any way the politics of the extremists. Nevertheless, to deny the existence of radical Islam—as some groups have aggressively assert—or to pretend it does not exist is tantamount to defending the militants as one and the same with peace-seeking moderates. Rather than protecting the moderates from being tarred with the extremist brush, it only paints them further. For the militants, of course, the deliberate blurring of the distinction between militant and moderate Islam is designed to hide under the protection of mainstream Islam. Extremists in Islam are no different than other religious extremists—whether it be a Jewish terrorist who shot the Israeli Prime Minister because he believed he was commanded to do so by God, or the anti-abortionist assassin who believes he has the right to kill anyone in the name of God. A religious extremist differs only in the religion he invokes to commit a crime.

Five. The attacks on today’s hearing and on me by various Islamic and Arab advocacy groups illustrates the growing danger of allowing militant groups to masquerade uncritically under the banner of self-anointed “civil rights” and “human rights” status. These groups are no more deserving of civil rights status than the Ku Klux Klan’s patently transparent efforts to masquerade under civil rights monikers advocating “human rights” for whites. In particular, the Council on American Islamic Relations and American Muslim Council, as well as others, have sent out emails and internet alerts “warning” their supporters about these hearings this morning. In effect, the message disseminated by these groups was that merely discussing the presence of Islamic radicals on American soil is to be construed as an attack on Islam. The same type of message was issued by Sheikh Omar Abdul Rahman, spiritual ringleader of the World Trade Center bombing-related conspiracy, when he claimed that his conviction was “an attack on Islam.” This type of contrived delusion is but a transparent effort to prevent a free discussion of the threat of militant Islamic fundamentalism in the United States. On Sunday night, an even more incendiary email alert was distributed by the “Free Arab Voice” when it labeled this hearing an “attack on Islam.”

THE THREAT TO FREE SPEECH AND THOUGHT

If not confronted, the efforts by radical Islamic groups such as the Council on American Islamic Relations (CAIR) and the American Muslim Council (AMC) to intimidate those who speak out on the threat of militant Islamic fundamentalism poses one of the greatest dangers to the freedoms in American society. In point of fact—elucidated later in this testimony—these groups are actual political wings of radical Islamic fundamentalist organizations. They have defended terrorist groups, terrorist leaders including Hamas chieftain Musa Marzook and World Trade Center bombing conspiracy ringleader Sheikh Omar Abdul Rahman, and the Sudanese terrorist regime currently engaged in a genocidal war against the Christian minority. Both of these groups have sponsored visits in the United States of leading international militants and known anti-Semites (including those who exhorted their followers to kill Jews) and consistently attacked American writers for exposing the threat of militant Islamic extremism.

These groups pose a clear and present danger to American freedoms and society, not to mention moderate Muslims around the globe.

Congress ought to actively defend the right of journalists, writers, and others to speak out against the militant activities of radical fundamentalists, free from the threat of intimidation and violence. It is intolerable that writers and American citizens on American soil should have to endure the same defamatory campaigns and threats as Salman Rushdie. As a result, few journalists have dared to expose the international terrorist connections of seemingly benign Islamic institutions that hide under demonstrably false veneers of moderation and tolerance. The courageous indi-

viduals who have taken on these groups have been subjected to frightening campaigns of intimidation that do not pass unnoticed by their colleagues. The result is that stories describing the true nature of radical Islamic activities in the U.S. and their growing menace to American society are few and far between. Moreover, the menace of radical Islam to secular and moderate Muslims, women, and intellectuals has been ignored almost entirely.

Militant Islamic fundamentalist groups continue to propagate their views throughout the United States, crowding out the views of the vast, overwhelming majority of Muslims who are against terrorism and violence. The radical groups operate below the conventional political radar screen that normally detects fringe and extremist organizations. Thus, these militant groups, and the politicians who associate with them, are allowed to maintain an unwarranted respectability. In the end, these radical groups are helping to solidify the political foundations of an extremist ideological belief system that sanctions savage suicide attacks in Israel, wanton murder of foreigners in Egypt, decapitation of young Algerian women who refuse to wear the Islamic veil, and death sentences against intellectuals and writers such as Taslima Nasreen and Salman Rushdie for writing things deemed "offensive."

Already, The New Republic, U.S. News and World Report, the Dallas Morning News, HBO, the Tampa Tribune, the Reader's Digest, The Journal of the American Medical Association and even the Weekly Reader's Current Events have become the subjects of well-coordinated campaigns of intimidation and implicit threats of violence for publishing stories deemed offensive to militant Islam. Hollywood studios that have produced "Executive Decision," "Not Without My Daughter," "Father of the Bride II" and "Path to Paradise" (a docu-drama about the World Trade Center bombing) have been the targets of vicious attacks by militant Muslim groups falsely invoking "anti-Muslim stereotypes" and violations of "Muslim human rights." While any racism must be condemned unequivocally, the attacks on these films falsely contended that the mere portrayal of Muslim terrorists or Islamic militants is a wholesale fabrication. This line of argument holds as much legitimate substance as the argument that films about the Mafia, Asian and black gangs, Russian mobsters, German Nazis and corrupt CIA agents are slurs against their respective nationalities or institutions. Militant Islamic groups have actually claimed that the notion of Jihad or Holy War in Islam was concocted by the West as part of a campaign to defame Islam. Unless exposed for their ulterior agenda, these radical Islamic fundamentalist groups, hiding under politically-correct jargon, will continue to increase in strength and become more influential.

MY OWN PERSONAL EXPERIENCE

The fact that I have been forced to accept physical security in coming to this hearing this morning provides a personal insight into the scope of the current and growing problem. In November 1994, I served as the executive producer and reporter for the PBS documentary "Jihad in America." The film included previously unknown videos of the clandestine activities of radical Islamic terrorist groups operating in the United States, and featured interviews with moderate Muslims and federal counter-terrorism officials speaking for the first time about the magnitude of the threat posed by military Muslim groups on U.S. soil. I was gratified by the fact that the film served as the impetus for the counter-terrorism legislation passed by Congress, and that it became a standard part of federal law enforcement education and training. "Jihad in America" also earned a George Polk Award for best documentary and the Investigative Reporters and Editors Award for the best piece of investigative reporting in book, print or television.

Until now, I have not told my personal story because I never wanted to become part of the story that I have covered as a journalist. Yet, I no longer have the luxury of keeping quiet. Immediately following the release of "Jihad in America," I became the target of radical fundamentalist groups throughout the United States (and internationally) who fiercely denied the existence of "Islamic extremism" and accused me of engaging in an "attack against Islam." For this "transgression," my life has been permanently changed.

Explaining the details of just one incident—to pick among a whole series—will help you understand the changes I have been forced to endure. One morning, in late 1995, I was paged by a federal law enforcement official. When I returned the call, this official immediately instructed me to head downtown to his office and specifically directed me to take a taxi rather than my car. The urgency in this person's voice was palpable. When I arrived at the office, I was ushered into a room where a group of other law enforcement officials was waiting. Within minutes, I found out why I had been summoned; I was told a group of radical Islamic fundamentalists had been assigned to carry out an assassination of me. An actual hit team had been

dispatched from another country to the United States. The squad, according to the available intelligence, was to rendezvous with its American based colleagues located in several U.S. cities. Compounding the jolt of being told about this threat was an additional piece of information: The assassination squad had been able to successfully elude law enforcement detection.

I was told that I had limited choices: Since I was not a full-time government employee, I was not entitled to 24 hour a day police protection. However, I could probably get permission to enter the Witness Security Program under the right circumstances. But the prospect of being spirited away and given a new identity was not acceptable to me—especially since that would afford the terrorists a moral victory in having shut me down. Frankly, however, the alternative option was not that attractive either—being on my own and taking my own chances. And yet that for me was the only effective option.

THE INTIMIDATION OF WRITERS AND JOURNALISTS BY THE COUNCIL ON AMERICAN ISLAMIC RELATIONS

This is the reality of the political environment which exists today. Unfortunately, the new fears engendered by the stridency of militant Islamic groups attacking writers for their "anti-Islamic" views are all too real and palpable. All one needs to do is to ask the editor a children's magazine who had the temerity to include an article on internal terrorism which included on a list of terrorist events the World Trade Center bombing in addition to the Oklahoma City bombing; a Catholic priest who favorably reviewed a book on the historical treatment of Jewish and Christian minorities under Islamic rule hundreds of years ago; even screenwriters who authored films based on real events in which radical Islamic protagonists carried out terrorist events against the United States.

In the October 1997 issue of *First Things*, Fr. John Richard Neuhaus reviewed *The Decline of Eastern Christianity Under Islam: from Jihad to Dhimmitude*, by Bat Ye'or. He favorably reviewed the book and commented about the growing threat of militant Islamic doctrine. The Council on American Islamic Relations (CAIR)—one of the groups leading the attack on today's hearing—responded with a press release calling upon the Catholic Church to investigate Fr. Neuhaus because:

He portrayed Islam as a permanent threat to Western society, used racial and ethnic slurs against Arabs, offered inaccurate and offensive information about the spread of Islam, seemed to agree with those who think Muslim immigration is a "low-level jihad" and suggested Christian-Muslim dialogue might be a "delusion." * * * [In a letter to the General Secretary of the National Council of Catholic Bishops] Awad called for an investigation to determine whether Father Neuhaus' article reflected authentic Church doctrine, with appropriate actions to bring Father Neuhaus into conformity with these teachings.¹

Following CAIR's statement, Neuhaus received a flood of hostile communications. They included such terms as "venomous diatribe," "hateful xenophobia," "doing the work of Adolph Hitler," agitating for a new Crusade" and "obviously mental ill." Father Neuhaus commented:

"The attack initiated by CAIR produced dozens and dozens of letters from as far away as Australia, some of them accompanied by hundreds of signatures of Muslims who claimed to be deeply offended by the review. * * * The campaign obviously had the aim of intimidating into silence anyone who dares to say anything less than complementary about things Muslim."²

Following the brutal massacre of tourists in Luxor last fall, Montreal Gazette cartoonist Terry Mosher produced a cartoon of a mad dog in Arab headdress, labeled "Islamic Extremism" and captioned "With Apologies to Dogs Everywhere."³ Nihad Awad responded:

"It is unconscionable that members of any faith be portrayed in such a manner. The is [sic] an example of the current trend toward demonization of Islam and dehumanization of Muslims. We share Mr. Mosher's revulsion at the recent massacre in Egypt, but he does not have the right to incite anti-Muslim hatred and bigotry by equating all Muslims with mad dogs. The cartoon referred exclusively to Islam and made no mention of the massacre" * * *⁴

The cartoon refers not to Islam, but to Islamic extremism. Awad thus treats an attack on extremism as an attack on Islam. His revulsion at the massacre does not prevent him from defending the ideology that produced it. After CAIR's notice, the

¹ "Islamic Advocacy Group Calls on Church to Investigate Priest's Anti-Muslim Remarks," CAIR Press Release, October 16, 1997.

² Fr. Richard John Neuhaus, "Islamic Encounters," *First Things*, February 1998.

³ *Montreal Gazette*, November 18, 1997.

⁴ CAIR Action Alert #154, December 5, 1997.

Gazette received numerous hostile and threatening communications, mostly by electronic mail.⁵ Mosher himself received death threats and was forced to vacate his home.

Most recently, CAIR attacked columnist Nat Hentoff, a consistent and forthright advocate of human rights and free expression, for two columns criticizing Louis Farrakhan and Jesse Jackson, among others, for failing to speak out against slavery in Sudan and Mauritania. Ibrahim Hooper responded that: "Perhaps this hesitancy results from a reluctance to indulge in politically and religiously motivated sensationalism that plays on and amplifies existing Islamophobic tendencies in Western society. Mr. Hentoff demonstrated the nastier aspects of this trend with his use of offensive terms such as 'Islamic enslavement' * * *"⁶

Hooper also argued with Hentoff's facts, but his primary argument is that Hentoff—and Farrakhan and Jackson—should not discuss slavery in Sudan because of the alleged negative impact of such a discussion on American Muslims. Before joining CAIR, Hooper also attacked the distinguished writer Paul Theroux for defending Salman Rushdie.⁷

Pretending to be a civil rights group, CAIR is representative of the new transformation of militant Islamic groups. CAIR's origin and the affiliations of its founders. It was formed not by Muslim religious leaders throughout the country, but as an offshoot of the Islamic Association of Palestine (IAP). Incorporated in Texas, the IAP has close ties to Hamas and has trumpeted its support for terrorist activities. Its publications, the Arabic *al-Zaytuna* and the English language *Muslim World Monitor*, frequently praise terrorist actions.⁸ Nihad Awad, the founder and executive direct of CAIR, was contributing editor of the *Muslim World Monitor* when CAIR began operations.⁹ IAP has issued Hamas communiqués calling for the killing of Jews, produced training videos for Hamas operatives, and actually recruited for Hamas in the United States.¹⁰ Oliver Revell, former head of FBI counter-terrorism, has called the IAP a "Hamas front."¹¹ CAIR has used the IAP Web Site for its early Internet publications.¹² The close connection between Hamas, IAP, and CAIR reveals CAIR's true purpose.

The connections between CAIR and Hamas extend beyond Nihad Awad. Mohammad Nimer, the director of CAIR's Research Center, was on the board of directors of the United Association for Studies and Research (UASR). This innocuous sounding organization is the strategic arm of Hamas in the United States. One Hamas terrorist operative, caught and convicted by Israeli authorities, called UASR "the political command of Hamas in the United States."¹³ There are numerous other indicators of the close connections between UASR and Hamas.¹⁴ Nimer's transition from UASR to CAIR paralleled Awad's transition from IAP to CAIR. Another founding director of CAIR, Rafaeq Jabar, is president of the Islamic Association of Palestine. At the October 1997 Council for the National Interest Convention, Jabar described Israel as "living in apartheid," and Zionism as a "racist movement." He asserted

⁵ Terry Mosher, "Sometimes Satire Backfires: Some Events Are Simply Not Very Cartoonable; Others Prompt Protest, *Montreal Gazette*, December 27, 1997.

⁶ CAIR Press Release, January 17, 1998.

⁷ Ibrahim Hooper, "Insult to Islam," letter to the editor, *Minneapolis Star Tribune*, February 23, 1992.

⁸ In October 1994, *Al-Zaytuna* ran the following headline: "In Its Greatest Operation, Hamas takes credit for the Bombing of an Israeli Bus in the Center of Tel Aviv." The January 19, 1996, *Muslim World Monitor* describes the Israeli killing of Yahya Ayyash, the Hamas bomb maker known as "the Engineer" as "the latest in a string of terrorist attacks and murders carried out by Israel." The March 17, 1994 issued claimed that Baruch Goldstein's massacre of Palestinians at Hebron was part of a "Jewish tradition of slaughtering Jewish enemies at Purim," an unusual form of blood libel.

⁹ Nihad Awad is listed on CAIR's 1994 IRS form 990 as executive director by the name Nehad A. Hammad.

¹⁰ Steven McGonigle, "Paper Trails Leads to Hamas," *Dallas Morning News*, April 18, 1996. "Gaza PA, September 1992: Hamas Training and Recruitment," a video by AqsaVision, IPA's video production unit, is an example of the training videos.

¹¹ Quoted in Steven A. Emerson, "The Other Fundamentalists: A Report on the Islamic Extremist Network in the United States," *The New Republic*, June 12, 1995.

¹² For example, CAIR's press release on the 1996 summit meeting between King Hussein and Yitzhak Rabin appeared at the IAP Web Site, www.iap.org/politics/peace/cair-jr.

¹³ Judith Miller, "Israel Says That a Prisoners' Tale Links Arabs in US to Terrorism," *New York Times*, February 17, 1993.

¹⁴ The vast majority of UASR publications support, and often extol, Hamas. The telephone records of Hamas terrorists arrested in Israel have shown communications between them and UASR offices in the United States.

that "when a Jew passes by a cross, they [sic] have to spit" and said of Israel, "never treat this cancer with a bandage."¹⁵

FIVE YEARS AFTER THE WORLD TRADE CENTER BOMBING

Five years after the 1993 World Trade Center bombing in New York, the reverberations of the bombing are still being felt. At first, the initial assumption by law enforcement was that the immediate national security threat was contained to a small band of extremist followers of a charismatic but obscure Islamic religious leader named Sheikh Omar Abdul Rahman. Sheikh Rahman, a militant cleric from Egypt, had arrived in the United States in 1990 and recruited a band of fanatic followers who were mobilized by his calls for Jihad (Holy War) against the West.

In fact, in the five years since the bombing, intelligence officials and law enforcement agents have discovered that militant Islamic extremists have established extensive networks throughout the United States. Although there is no established hierarchy that centrally coordinates the activities of the myriad militant networks, the intelligence and law enforcement communities agree that the entire spectrum of radical groups from the Middle East has been replicated in the U.S.

These include: Hamas, Islamic Jihad, Hizbullah, Hizba-Tahrir (Islamic Liberation Party), Islamic Salvation Front (Algeria), Armed Islamic Group (Algeria), En-Nahda (Tunisian), Muslim Brotherhood, Ga'mat Islamiya (Egypt), Taliban (Afghanistan), Jamat Muslimeen (Pakistan), and support groups of mujahideen (Holy Warriors) in Bosnia, Philippines, Chechniya and other places. These groups have created large networks of supporters from whom they have raised tens of millions of dollars for their movements, recruited and trained new followers, underwritten their brethren organizations in the Middle East and elsewhere, and even remotely directed terrorist operations back in the Middle East or Europe. As stated by Oliver Revell, former Associate Deputy Director of the FBI, "the United States is the most preferred and easiest place in the world for radical Islamic groups to set up their headquarters to wage war in their homelands, destabilize and attack American allies and ultimately move against the United States itself."

For American Muslim moderates, the harsh reality of having their organizational gravity taken over by radicals is something they have to confront all the time. "Radical Islamic groups have now taken over leadership of the 'mainstream' Islamic institutions in the United States and anyone who pretends otherwise is deliberately engaging in self-deception," said the late Seif Ashmawi, an Egyptian-American newspaper publisher. Mr. Ashmawi died recently in a tragic car accident. A genuine American hero, Mr. Ashmawi has been the target of death threats for his criticism of Islamic militants in his New Jersey area, particularly that of the group supporting World Trade Center bombing leader Sheikh Omar Abdul Rahman. He appeared in my film *Jihad in America* and testified before the Senate Foreign Relations Committee nearly two years ago about the dangers of extremist groups and their activities in the United States.

THE USE OF NON-PROFIT AND TAX-EXEMPT FOUNDATIONS

The primary vehicle through which radical groups have established a "legitimate" presence in the United States has been the establishment of non-profit charitable, religious, academic, and educational institutions. During the past seven years, there has been a proliferation of radical Islamic groups hiding under false cover using 501c(3) and other non-profit status. Every year, scores of new organizations receive non-profit charity status to raise millions of dollars annually to fund their "charitable" arms in the Middle East such as Hamas hospitals, schools and religious institutions. (It is through this Hamas social welfare infrastructure in which Hamas recruits new followers and cultivates its selection of soon to be terrorists. Although some observers have contended that the social-welfare arm of Hamas is innocent, the fact is that these Hamas institutions are designed to bring the population at large under their influence and control.

Sometimes the monies raised go directly to purchase weapons and military supplies, although most of the time the tax-free money raised in the United States goes to underwrite the social welfare budgets of groups like Hamas, freeing up local funds for terrorist operations since money is fungible.

The locations of the radical groups span the entire United States. Certain areas are known to have larger concentrations of Islamic radicals and are the sites of offices of Islamic militant groups that raise funds, recruit new members, disseminate propaganda, and in some cases, recruit terrorist, provide military training and even direct terrorist operations back in the Middle East. These areas include Chicago,

¹⁵ Notes from a conference attendee. CAIR's IRS Form 990 for 1994 shows Jabar as a director.

Boston, Los Angeles, Santa Clara, New York, Washington, D.C./northern Virginia, North Carolina, Miami, Tampa, Dallas, Oklahoma City, San Diego, Orlando, Arizona, Kansas and New Jersey. Even with the know location of front groups, Islamic militants pose a more difficult challenge to law enforcement than any other terrorist group operating in the United States. "What makes these groups so troublesome is that they hide under a religion, do not have a traditional linear hierarchy, speak a foreign language and generally go about as far as they can in pushing the limits of the law without being tracked when and if they go over the line," says former FBI official Revell. "Their agenda in the United States is to not only build their infrastructure and raise funds but also to be in position to ultimately move against the United States."

THE RISE OF HAMAS AND MOUSA ABU MARZOOK

The first manifestation of Hamas' presence in the United States was the creation of the Islamic Association for Palestine for North America in 1981—and it was soon followed by the replication of this organization in various cities. Among the founders were Dr. Mousa Abu Marzook, Ghassan al-Ashey and his brother Bassam al-Ashey. Marzook and the al-Asheys developed extensive business holdings and corporate entities worth tens of millions of dollars. An examination of Marzook's achievements is instructive in understanding how Hamas has been able to develop a widespread network on American soil with neither scrutiny nor restrictions.

Born in 1951 in the town of Rafiah in the Gaza Strip, Marzook earned a college degree in engineering in Cairo in 1975 and moved to Louisiana soon after to attain his doctorate. By the early 1980's Marzook had become increasingly involved with a growing community of militant Muslims in the U.S. whose worldwide ideological fundamentalist fervor was unleashed by the Iranian revolution in 1980, the assassination of Egyptian President Anwar Sadat in 1981, and the jihad against the Soviet occupation of Afghanistan. Marzook would later be elected head of the Islamic Association for Palestine Majlis al-shura or consultative council that oversaw all the groups' activities.

By the mid-1980's—several years before Hamas came into formal existence in December 1987—the IAP had established offices in Indiana, Illinois and California, and was publishing a militant magazine called *Ila Falastin*, which routinely called for the death of "infidels and Jews". Moreover, internal Hamas documents strongly suggest that parts of the Hamas charter, a virulent anti-Semitic tract that incorporates elements of both Nazi dogma and the notorious turn-of-the-century Protocols of the Elders of Zion, was first written by members of the IAP in the United States in the early to mid-1980's.

As Hamas began leaving its special violent trademarks—stabbing and mutilations of its victims—in Israel, Gaza and the West Bank, it was from the United States that Hamas was controlled and funded. Marzook was busy further establishing the Hamas network under the guise of seemingly innocent religious groups, research institutions and investment companies. In 1989, Marzook became the founding president of the United Association of Studies and Research (UASR), a self-described Islamic "think-tank" which in reality served as a covert branch for planning Hamas operations and disseminating propaganda. In an interview with the Washington Post, Ahmed bin Yousef, current head of the Virginia-based UASR, denied any affiliation with Hamas and claimed that Mr. Marzook was only a "businessman" who briefly served on UASR's board of directors.

In June 1991, the largest international gathering of Islamist leaders ever held in the United States convened in the outskirts of Washington, DC. At the time this conference was held, U.S. law enforcement and intelligence were totally unaware of its existence. Such gatherings provided opportunities for the worldwide militant Islamic network to coalesce and establish new linkages.

Sponsored by the UASR, the extraordinary conference focused on the need to respond to the Western "crusades" against Iraq, the need to destroy the "Jewish state" and the threat of American-Crusader imperialism; it was represented by nearly every major radical fundamentalist organization, including Islamic Jihad, Hizba-Tahrir, Hizbollah, al-Jihad, Jamat Muslimeen and others. Representatives at this extraordinary conference included, to name a few, Marzook, Ahmed bin Yousef, Abdulrahman al-Amoudi (until last week executive director of the Muslim Council and now head of the AMC Foundation), Sami al-Arian (head of the Tampa-based Islamic Jihad front group known as the Islamic Committee for Palestine), Ramadan Abdullah Shallah (now head of the Islamic Jihad and former head of the Tampa-based Islamic Jihad front known as the World Islamic Studies Enterprise, or WISE), and many senior terrorist chieftains from overseas. The presence of so many militants has made their gathering the all-time "All-Star" terrorist conference in U.S.

history. Scores of papers and resolutions were presented that condemned the United States and Jews as part of a diabolical world plot to destroy Islam.¹⁶

Marzook rose to become chief operating office of Hamas, responsible for orchestrating and designing the group's terrorist apparatus and activities. He continued to come and go to and from the United States as he pleased, keeping homes in Ruston, Louisiana and Falls Church, Virginia. But all that changed—at least with regard to his use of the United States as a safehaven—on July 25, 1995, when he was detained at Kennedy Airport upon his return to the States. As Marzook attempted to reenter the United States, a routine primary inspection by an INS agent revealed that Marzook's name and date of birth matched a computer entry in the INS database that had been recently entered into a "terrorist watch" lookout. In his possession at the time of this arrest was paperwork showing his business companies to be worth more than \$10 million, which law enforcement officials believe to have been part of a massive money laundering operation for Hamas in the U.S. Equally significant was the discovery of Marzook's personal telephone directory that contained the telephone numbers of nearly every top terrorist in the world today. Interestingly, more than 20 percent of the phone numbers are those of Marzook's contacts and senior terrorist collaborators in the United States. At least ten of these close contacts still live in the Northern Virginia area.

THE ARREST OF MOUSA MARZOOK

On August 7, 1995, the Deputy United States Attorney for the Southern District of New York, acting in accordance with the extradition treaty between the United States and Israel and on behalf of Israel, requested the arrest and extradition to Israel of Marzook. An investigation undertaken by the Government of Israel had determined that Marzook should be prosecuted for murder, manslaughter, harm with aggravating intent, grievous harm, wounding, and harm and wounding under aggravating circumstances.

The Israeli Government contended that Marzook was criminally liable for ten incidents because of his high-level role in allegedly directing, controlling, and financially supporting the terrorist activities of Hamas. Because of his position, and Hamas' long history of violent and murderous attacks against civilian targets spanning from 1988 to the present¹⁷, the Israeli Government contended that "Abu Marzook was clearly aware of the nature of such attacks."¹⁸ The United States government endorsed the extradition request and affirmed the authenticity and accuracy of the evidence introduced showing that Marzook was intimately involved in planning terrorist operations.

In addition to compelling information from other Hamas members, Marzook incriminated himself during an October 10, 1994 television interview broadcast from the "Al Manar" television station in Lebanon. On October 9, the day before the interview, Hamas terrorists killed two and injured eighteen, including one American when they opened fire in a crowded Jerusalem pedestrian mall. During his interview, Marzook took responsibility for Hamas by claiming:

"[The] [d]eath is the wife of every Muslim, and every fighter hopes to die for the land of Palestine. This is not the first time that the heroes of Izz Al-Din Al-Qassam (i.e. the military wing of Hamas) undertook suicide and sabotage mission * * * We took suicide and sabotage mission * * * We perpetrate these activities for a noble cause: to fully reinstate the rights of the Palestinian People."

On May 7, 1996, Judge Kevin Duffy (SDNY) issued a memorandum and order that stated:

"In light of the evidence offered against Abu Marzook, I find that there is probable cause to believe Abus Marzook engaged in and intended to further the aims of the conspiracy by his membership in and support of the Hamas organization. I also find that probable cause exists that Abu Marzook knew of Hamas's plan to carry out violent, murderous attacks, that he selected the leadership and supplied the money to

¹⁶ Among the Jordanians was the radical parliamentarian Ishaq al-Farhan, who only a few months before gave a pep talk to 25 handpicked Hamas recruits in Chicago, and a few years earlier collaborated with Jordanian based Islamist Yusuf al-Azm on gunrunning for Hamas leader Ahmed Yassin in its pre-*intifadah* armament phase. Leith Shbeilat, another Jordanian parliamentarian present at the conference, was later caught with Ya'aqub Qarash maintaining a cache of weapons paid for by Iran, and implicated in a plot to assassinate King Hussein. He was convicted and then released by the King. (Days ago, he was arrested again on charges of fomenting anti-American and proSaddam Hussein riots in Jordan.)

¹⁷ Since January 1, 1989 at least 188 civilians and 98 military or security personnel were injured, in addition to murders and injuries inflicted on local Arabs suspected of cooperating with Israeli authorities.

¹⁸ U.S. District Court Southern District of New York (USDC-SDNY), *In the Matter of the Extradition of Mousa Muhammad Abu Marzook*, 95 Cr Misc. 1, August 7, 1995, Sealed Complaint.

enable the attacks to take place, and that such attacks were, therefore, a foreseeable consequence of the conspiracy.”¹⁹

The evidence against Marzook came from a variety of sources including: American retrieval of Marzook's U.S. banking records showing payments to Hamas subordinates and couriers; internal Hamas documents and records verified by American intelligence; Marzook's own public statements taking credit for “martyrdom” and other terrorist operations; and a voluminous amount of information provided by Muhammad Salah, a Chicago-based used car salesman appointed by Marzook as head of Hamas' worldwide military wing. Salah's information, was in turn confirmed by documents in his possession and by information provided by other Hamas terrorists arrested by Israel. Salah was arrested in Israel on January 25, 1993, in possession of approximately \$97,000 in cash, intended for distribution to members of Hamas. In scores of hours of conversations with other inmates and in a freely written confession in Arabic, Salah explained in detail the entire history and infrastructure of the Hamas organization, whose primary financial and political headquarters were based out of the United States and Great Britain.

Marzook and his American champions have claimed that Salah's confession was not valid asserting it was in Hebrew and that he was “tortured.” However, United States District Judge Kimba Wood, in a ruling affirming the correctness of Judge Kevin Duffy's ruling supporting Marzook's extradition, confirmed the validity and truthfulness of Salah's confession.²⁰ Moreover, in the initial U.S. government brief supporting the extradition of Marzook, the Justice Department concluded that information provided by Salah about Marzook's role in orchestrating and directing acts of terrorism “is considered especially reliable since it is based, in part, on a report that Salah prepared for individuals whom he believed to be fellow high-level Hamas operatives but who, in reality, were cooperating with Israeli authorities. The information obtained from Salah shows clearly that Abu Marzook took significant steps to further the violent activities of Hamas.”²¹

Salah revealed Salah had been authorized by Abu Marzook to recruit individuals for training in the uses of explosives in fight in the “holy war.” Salah began the training of ten recruits, and three were chosen to carry out attacks. Marzook instructed Salah to develop biological and chemical capabilities in the Hamas arsenal of available acts of terror in addition to the building of conventional bombs, assembly of explosives, and remote detonation devices. That Hamas' had put a premium on acquiring the capability of using biological and chemical agents clearly puts Hamas in the forefront of terrorist organizations of promoting chemical and biological warfare:

“Musa Abu Marzook, in charge of the activity, was responsible for the Muslim Brothers Organization in the U.S. and resigned from this job in order to devote his time to activities dedicated to Palestine. My task was to collect names of brothers and to mention them during the first meeting in the U.S. attended by Muslim brothers from Palestine, the occupied land. I carried out this activity in the name of the Security Committee * * * The activity [of the committee] was conducted as follows: Collection of all the names of Palestinians from the Occupied Land, together with the following details: Their fields of study, the date when they completed their studies, date of return to the occupied land, their ability to express themselves, military activity, and the ability to work with chemical materials * * * such as remote-control activation, agricultural pesticides and basic chemical materials for the preparation of bombs and explosives * * * and in the use of instruments to jam telephone conversations, and watches to activate explosive charges * * * (emphasis added.)²²

“[We chose them] also according to their expertise, which were: chemistry, physics, poisons, military material, and computers * * * For example, in chemistry we

¹⁹ U.S. District Court Southern District of New York (USDC-SDNY), *In the Matter of the Extradition of Mousa Muhammad Abu Marzook*, 95 Cr Misc. 1, May 7, 1996, Memorandum and Order, P.61

²⁰ U.S. District Court Southern District of New York (USDC-SDNY), *In the Matter of Dr. Mousa Mohammad Abu Marzook against Warren Christopher as Secretary of State, et al.*, 96 Civ. 4107 (KMW) Opinion and Order: Judge Wood wrote that “even ignoring these statements that were taken down in Hebrew, the Arabic statement in Abu Ahmed's [Mohammed Salah's] own hand that was given by him to some other inmates furnishes strong support for Judge Duffy's ruling * * *”

²¹ U.S. District Court Southern District of New York (USDC-SDNY), *In the Matter of the Extradition of Mousa Muhammad Abu Marzook*, 95 Cr Misc. 1, August 7, 1995, Sealed Complaint.

²² Hamas—A translation of Material Written by Muhammed Salah During His Interview, August 21, 1995.

asked him what is your specialization? Or what is your level * * * toxins chemistry? Can you prepare poisons?"²³

In addition, Salah advised Marzook that he and another member of Hamas had discussed the possibility of murdering Seri Nusseibah, an avid supporter of the "Middle East Peace Process." Marzook expressed enthusiasm for the idea but ultimately did not activate the plan.

As for planning specific operations, Marzook—according to the confession of Mohammed Salah and confirmed independently by the statements of other Hamas operatives—told Salah and other Hamas operatives which terrorists to meet and how much money each was to be given. According to two Hamas members who were interrogated following their arrest in 1991 and who were convicted of terrorist activity, Marzook traveled to Gaza in 1989 in order to reorganize the infrastructure of Hamas. To finance these activities, Marzook used his own personal bank accounts in the United States, and transferred \$300,000 to Hamas operatives in the West Bank and Gaza. The two Hamas members further stated that during the reorganization, Marzook played an important role in supervising the military wing and in appointing individuals to important leadership positions.²⁴

Marzook gave Salah, prior to his departure from the U.S., the location of the body of an Israeli soldier kidnapped and murdered by Hamas in order to negotiate the release of imprisoned Hamas leaders. Marzook sent Salah to the territories in 1990 to create a military-security apparatus for Hamas and a means of coded communication for Hamas operatives to communicate to their commanders in the United States and London. Marzook secretly visited the West Bank and Gaza in 1989 and 1990 to provide firsthand instructions to his troops on the ground.

In the confession provided by Salah, he revealed that he elected to stop military training in the United States because of active investigations by American law enforcement into the alleged ties between "Iraq and Muslim Arabs in the United States" for the procurement of military equipment for Iraq:

"The purpose [of meetings] was to exploit their knowledge in demolition materials and weapons. However, we stopped the meetings after some time, as a result of the Gulf War. * * * Following the (Gulf) War, we decided to stop the training because the American Intelligence Service investigated the ties between Iraq and Muslim Arabs in the United States, and especially as regards the procurement of complex equipment."²⁵

"But because of the war which was uppermost in our minds we thought that we would have to stop—since the American Intelligence was actively surveilling Iraqi connections, especially with Muslim Arabs in America—for purchasing complex materials."²⁶

It is clear that charitable institutions in the United States provided money for Hamas' terrorist activities in the Middle East:

"They [interviewers] asked me about the charity associations collecting funds for the Islamic world. The Mosques also collected funds for the deportees during the Friday prayers, immediately after the deportation. Since there is a large Islamic community in Chicago, they collected an enormous amount of money, and that is what brought me before the others, and the correct thing is that the money was deposited by Musa Abu Marzook. * * *"²⁷

"They [interviewers] asked me for the reason why I came and I said: humanitarian activity, for allocation of charity funds to the families of the poor and the deported. These are funds from charity institutions."²⁸

THE ISLAMIC ASSOCIATION FOR PALESTINE

Despite the slight disruption caused by Marzook's arrest and deportation, the Islamic Association for Palestine (IAP) remains Hamas' principal American support group. IAP's main offices today are in Chicago, Illinois and in Richardson, Texas just outside of Dallas. IAP has set up an elaborate publications and video operation to promote Hamas, in both Arabic and English. While the Arabic publications brazenly support Hamas, IAP's English-language literature and videos—clearly in-

²³ Transcript of Muhammad Salah, June, 1993.

²⁴ U.S. District Court Southern District of New York (USDC-SDNY), *In the Matter of the Extradition of Mousa Muhammad Abu Marzook*, 95 Cr Misc. 1, August 7, 1995, Sealed Complaint.

²⁵ Hamas—A Translation of Material Written by Muhammed Salah During His Interview, August 21, 1995.

²⁶ Transcript of Muhammad Salah, June, 1993.

²⁷ Hamas—A Translation of Material Written by Muhammed Salah During His Interview, August 21, 1995.

²⁸ Hamas—A Translation of Material Written by Muhammed Salah During His Interview, August 21, 1995.

tended for non-Muslim Western audiences—are relatively tame, refraining, for the most part, from advocating terrorism and hatred against Jews and Christians—but not entirely.

One IAP publication entitled “America’s Greatest Enemy: The Jew and an Unholy Alliance,” has been routinely distributed at Islamist conventions. Another IAP brochure, authored by Yusef Islam, formerly known as the signer Cat Stevens before he converted to Islam, contains plain old anti-Semitism:

“The Jews seem neither to respect God nor his creation. Their own holy books contain the curse of God brought upon them by their prophets on account of their disobedience to Him and mischief in the earth. We have seen the disrespect for religion displayed by those who consider themselves to be ‘God’s chosen people.’ * * * There will be no justice until all the land is given back to its rightful owners * * * Only Islam can bring peace back to the Holy Land. * * *

In the past, IAP has published and disseminated Hamas communiqués. One Hamas communiqué disseminated by IAP urged the “killing of * * * the bloodsuckers * * * and killers of prophets.” Another condemned the “American enemy” as a “full participant in the conspiracy” to wipe out the Palestinians, specifically blaming the U.S. for participating in the Sabra and Shatilla massacres. And following the dispatch of U.S. forces to Saudi Arabia after Iraq’s invasion of Kuwait in 1990, IAP published another Hamas communiqué:

“History repeats itself. Once more the Ummah is exposed to a fierce crusade, an imperialist attack, an oppressive Western alliance, to target its dignity, break its power and unity. * * * The only justification for a crusading alliance is another anti-Islamic war to complete the deficient Zionist actions, so thousands of Jews are smuggled to Palestine in pitch darkness. * * * Burn Israeli and American flags. * * *

In late August 1990, the IAP held a special one-and-a-half day conference in Kansas City, with more than 100 representatives from militant Islamist groups from the Middle East and Persian Gulf. The group issued a resolution which “regret[ed] the state of affairs between Iraq and Kuwait for using force to resolve disputes.” But its primary rage was directed at the United States. The IAP “condemn[s] the American crusades leading arrogant international forces.”²⁹

In the past, IAP also operated a once-a-year training camp and retreat for six years in Arizona. In advertisements in *Ila Falastin*, the camp was promoted as a “jump-start” (*Intilaqah*) in preparation for waging jihad. Hamas recruits in the Tucson area conducted military training, similar to the training carried out in the northeastern United States by members of the Jihad organization led by Sheikh Omar Abdul Rahman.

The IAP has also distributed terrorist recruitment videos through a company called Aqsa Vision, housed in IAP headquarters. One such video, called *Iz ad-Din al-Qassam Brigades*, opens with dramatic shots of bearded Palestinian men armed with Kalashnikovs jumping out of trees and aiming their rifles. Hamas fighters are featured arming and preparing weapons, machine guns, and molotov cocktails. Interspersed with the operational video, fighters are interviewed, and boast of their heroic killings of Jews and Palestinian “collaborators.” There are even chilling interviews of blindfolded Palestinians “confessing” to their “crimes” moments before their execution. The end of the video says, “To order your copy, call Aqsa Vision,” and gives the Texas phone number of IAP. (The Aqsa Vision office and address are the same as that of IAP. The labels of other publicly available tapes state “IAP Aqsa Vision.” Although Aqsa Vision is Hamas’s audio-visual arm, it is operated under a separate corporate entity known as the American Media Group.)

Today, the internet has created opportunities to spread extremist messages around the world in the tap of a keyboard. The IAP’s website frequently contains glorification of terrorist violence by Hamas. It also has used the site to disseminate Holocaust denial material.

²⁹ During this conference, one of the speakers was Khalil al-Qawqaa, a Hamas leader from the territories:

“Dear Brothers and sisters, we used to cross swords with America and with imperialism in a sportive way, by means of culture clash, by critique and writing in newspapers and journals and in debates. But the confrontation has reached a point of no return. * * * All veils have fallen. All barriers have broken down. And today, America is right here at your doorstep, in everybody’s house. Ba’al, the idol, is back and stands erect in the Arabian peninsula. Is there a Muhammad to slay the Ba’al of our times? Is there an Abu Bakr, an Ummah, for this noe-Ba’al? The marines, dear brothers, are stealing the doors of your houses, and the doors of your mosques, in obstinate and open provocation. They are at our doors. Their plan is to penetrate the flesh of our girls. And our honor, and our values, in order to turn our society into a pervert nation. * * *

"I see three principal reasons for the widespread but erroneous belief in the legend of millions of Jews killed by the Germans during World War II: U.S. and British troops found horrible piles of corpses in the west German camps they captured in 1945 (e.g. Dachau and Belsen), there are no longer large communities of Jews in Poland, and historians generally support the legend. * * * When Germany collapsed in chaos then of course all such defenses ceased, and typhus and other diseases became rampant in the camps, which quartered mainly political prisoners, ordinary criminals, homosexuals, conscientious objectors, and Jews conscripted for labor. Hence the horrible scenes, which however had nothing to do with 'extermination' or any deliberate policy."³⁰

In recent years, IAP has organized several extraordinary conferences of militant leaders. Even through the central theme is Hamas and the jihad in Palestine, the conferences serve as an umbrella for the core members of the most militant Islamist groups. These conferences serve as covers for recruitment, training, and fundraising of terrorist organizations, beyond their overt function of introducing new groups to one another so they can network with one another from their indigenous bases. At some of these annual conferences, actual terrorist training classes have been held close by.

One extraordinary IAP conference attended by 1,200 people was held in Kansas City in December 1989. A videotape, made by the IAP, captured the highlights of the conference which featured the core of militant Islamist leaders. Behind a long table at the head of a large auditorium was a 30-foot sign with the Arabic words "Palestine is Islamic from the River to the Sea" superimposed over a blood-red map of Israel.³¹ The highlight of the conference was the appearance of a veiled Hamas commander. As he rose to his place, a Hamas flag in one hand and a Qur'an in the other, the crowd roared, "Allahu Akbar wilillahi'l-Hamd!" ("Allah is the greatest and to Allah the praise!")—the slogan of the international Muslim Brotherhood movement. "Allahu Akbar!" This was the moment everyone seemed to have been waiting for.

"His face still cloaked in a red-and-white checkered keffiyeh, the Hamas commander then spoke: 'Greetings * * * from the occupied land * * * I extend thanks to all those who stood on our side at times when our allies were few. By this I mean the Islamic Association for Palestine, the Occupied Land Fund [renamed as the Holy Land Fund for Relief and Development], the Al Munassarrah Welfare Committee and the International Islamic Relief Organization.' (Significantly, each of the four cited groups have offices in the United States.) For the next 20 minutes, the commander gave a report describing in methodical detail Hamas terrorist attacks against Jews, reveling in the bloody nature of each assault. "Naturally, the war moved into

³⁰ Islamic Association for Palestine Website, A Short Introduction to the Study of Holocaust Revisionism by Arthur R. Butz, February 10, 1997.

³¹ To pick at random, here is an excerpt from a speech given by Egyptian-born Muslim Brotherhood leader Yousuf Al-Quardawi. "So if they fight us with Judaism, we will fight them with Islam! If they fight with the Torah, we will fight them with the Qur'an * * *. If they say their temple, we have the Masjid al-Aqsa. Because our religion is stronger than theirs. * * * On the Hour of Judgment, the Muslims will fight the Jews and kill them, until the Jews will hide behind the stone, and the stone and the tree will say, O Servant of Allah, O Muslim! There is a Jew behind me, come and kill him. * * * Muslims will not be victorious by nationalism, and not by monarchy, and not by democracy, and not by Marxism—they will only be victorious by Islam and they will only be liberated by Islam!"

Another speaker was Sheikh Rashid al-Ghannoushi, leader of the militant Islamist party in Tunis, al-Nahdah. In his Kansas City speech on December 1989 to IAP, Ghannoushi said:

"O brother and sister *mujahideen*, I salute you and transmit to you greetings from your brothers in Tunis, including those who are behind bars, imprisoned in the past few days following a tempestuous march of solidarity with the triumphant march of the people of the *intifadah*, in its second commemoration, and peace be upon you, and the mercy of Allah, and his blessing."

"The Islamic Ummah: Once again it embarks upon the salvation of humanity, confronting the Zionist project in Palestine, seeking to save the civilization of mankind, the salvation of the Islamic Ummah. Humanity has surrendered to the Zionist project today, and there is no hope for the civilization of man, there is not hope for goodness and mercy and justice except that the vanguards of the Islamic Ummah lift away the damage (?) forever."

"What you are embarking on is not just a regional project. It is not merely the liberation of one land of the many well-known lands. Rather, you are embarking on the salvation of man, by salvation of Islam—the salvation of the civilization of humanity—because the Zionist project is a danger to all goodness in the entire world."

Perhaps the most incendiary speech at the convention was delivered by Ahmed al-Qattan, a military Palestinian cleric based in Kuwait:

"Greetings to those who shoot at the Jews with the catapult, and to those who poke our the eyes of the Jews with the slingshot * * *. In 1967 * * *. The Jews sang, 'Muhammad is dead and he gave birth to girls' * * * [and we answer], 'O sons of pigs and monkeys, Muhammad is not dead and he did not give birth to girls.' Rather, Khaybar, Khaybar o Jews; Muhammad's Army will return! * * *"

Israel's '48 boundaries. One day in Tel-Aviv, one of the brothers entered a building and began stabbing all the people. * * * The last operation I am going to tell you about is the operation of the bus * * *

Shouts of "Allahu Akbar" erupted from the crowd, which seemed to know what he was going to discuss. The Hamas commander continued: "Abd al-Hadi Salim Ighneim was on the bus to Jerusalem, bus 405, and he steered it off the road. * * * And the bus plunged into the water—16 Jewish soldiers were killed!" (In fact, 17 civilians, including one American, were killed when a fundamentalist steered bus 405 into a ravine.) "* * * I call upon my brothers to take up arms with us * * * to take up arms and arms alone!" The crowd responded with thunderous ovation and chanting of "Allahu Akbar."

Nine years later, the Islamic Association for Palestine's annual conferences are just as incendiary. The 1996 and 1997 conferences held in Chicago featured military Islamic leaders and repeated exhortations to support terrorist attacks as well as condemnations of the United States.

HAMAS PUBLICATIONS

IAP's reach has blossomed. Its flagship publication, al-Zaitonah, is one of the largest indigenous Arabic-language publications in the United States. Although dedicated to promoting Hamas, the newspaper also supports other Islamist militant liberation movements, including those in Kashmir, the Philippines, Egypt, and Algeria. Al-Zaitonah frequently celebrates successful Hamas attacks. In its October 27, 1994 issue, for example, al-Zaitonah's headline was: "In its greatest operation, Hamas takes credit for the bombing of an Israeli bus in the center of Tel Aviv." Articles routinely warn of international "Mossad plots" and other Jewish and American-led worldwide anti-Muslim conspiracies.

But al-Zaitonah does not limit its venom to Jews. An article in al-Zaitonah in 1993 discussed the role of gays and lesbians in the Clinton Administration under the title "Perverts in the American Centers of Decision Making": "The active movement of those perverts has led many of those who previously used to hide their perversity to declare openly that they are perverts. Amongst them, Congress member Barney Frank, a Democrat from Massachusetts * * *

IAP also publishes an English-language newspaper called the Muslim World Monitor. Following the convictions of four men in the World Trade Center bombing, the Muslim World Monitor published an editorial claiming that the guilty verdicts represented "the degree to which anti-Muslim venom had penetrated society" and that the U.S. government suppressed evidence showing that the Mossad, Egyptian intelligence and FBI were all involved in the bombing. Frequently the Muslim World Monitor publishes articles alleging diabolical conspiracies perpetrated by Jews and other "enemies of Islam." Articles routinely glorify Islamic terrorist attacks, praise the policies of radical Islamic regimes such as Sudan, and brazenly exhort their readers to support militant Islamic movements wherever they may be found. One article asserted that Jews ritually slaughter non-Jews during the holiday of Purim, thus "explaining" the actions of the Jewish terrorist Baruch Goldstein in his massacre in Hebron.

THE HOLY LAND FOUNDATION

The Holy Land Foundation was founded as a non-profit charity in 1987 in Richardson, Texas. Although Holy Land Foundation claims merely to be concerned with global crisis and with the Palestinian cause, it is an active Hamas supporter, and acts as a financial conduit for Hamas. In addition, the Holy Land Foundation strives to legitimate Hamas' activities by putting a humanitarian veneer on supporting terrorist activity in the Middle East.

Evidence strongly suggests that the Holy Land Foundation provides a crucial financial service for Hamas—family annuities to suicide bombers. These annuities assure a constant flow of suicide volunteers, and buttress a terrorist infrastructure heavily reliant on moral support of the Palestinian populace. In the words of its literature, Holy Land Foundation supports "families of detainees, deportees and martyrs."

In its publications, the Holy Land Foundation solicits tax deductible contributions for charitable causes. Yet, some of that money is forwarded to Hamas organizations which use that money either to support military squads or to indoctrinate Muslim youth with radical Islamic ideology.

On May 6, 1997, the Israel Ministry of Defense issued a decree, which shut down the local office of Holy Land Foundation, and its director is currently on trial after being arrested for furthering terrorist activities. Confiscated documents along with the confession of the director indicate that Holy Land Foundation is a Hamas fund-

raising front that channels money from its Richardson, Texas office to its Israeli office in support of Hamas terrorist activity in the Middle East.

Both Holy Land Foundation and Hamas are officially committed to assisting the families of "martyrs." Holy Land Foundation is explicit in its literature concerning the targets of their fundraising campaigns, which include orphans, widows, and the bereaved families of martyrs. A Holy Land Foundation pamphlet distributed at the Muslim Arab Youth Association conference in Dayton, Ohio in December of 1996 enumerates how it alleviates the suffering of the destitute Palestinian population: "Poor Family Assistance, aiding distressed families of detainees, deportees, martyrs and other impoverished families to be uplifted to a more mainstream life."³²

During a Ramadan charity drive, Holy Land Foundation distributed pamphlets that explained who its principal beneficiaries should be: "Cold * * * Hungry * * * Sick * * * Sad * * * words that are not normally associated with Ramadan! But this is the case for many Palestinian families. They have lost their bread-winners who are now dead, detained, or deported. They are hurting so much now, So won't you help their pain if you can?" The accompanying pledge card read: "Yes. I can and want to help needy families of Palestinian *martyrs*, prisoners and deportees"³³ (emphasis added). Furthermore, the Holy Land Foundation has declared its intention to provide more financial assistance to the families of suicide bombers for financial assistance.

Although the HLF purports to allocate money to the needy, a disproportionate amount reaches the hands of Hamas activists and their families. The Israeli Government has stated:

"While the [Holy Land] foundation does give occasional small grants to ordinary orphans, the vast majority of its assistance goes to the families of Hamas terrorists who have been killed, deported or imprisoned. By giving the terrorists the assurance that their families will be cared for if anything happens to them, the state said, the foundation encourages and sustains terrorism."³⁴

The Israeli Government further stated that:

"The General Security Service's examination of receipt lists showed that most of the families who received only the minimum assistance of \$100 had no known connection to Hamas. However, almost all those who received donations of \$200-\$800 (\$800 is the maximum donation per family) were Hamas families. On the list of aid recipients, 25 of the 28 families in the \$200-\$800 category were the family of known Hamas activists who had been killed, deported or imprisoned. * * * The state also found that 23 of the 26 charities which the Holy Land Foundation works are run by known Hamas activists."³⁵

THE HAMAS PARADIGM

Many Western observers and analysts are under the misconception that the organizational and social structure of Hamas and its activities follows the same definitional parameters as in Western society. Two misconceptions are prominent. First, that the social welfare Hamas provides its constituency is akin to what we understand social welfare to mean. Second, that there is a real divide between Hamas' political and military leadership.

A Washington Post article dated August 18, 1997, provides examples of both misconceptions. It said of Hamas' "social work": "Idle youth are attracted in droves to [Hamas] seaside camps where they find recreation mixed with Islamic evangelism. Clinics run by Hamas offer free medical care to the ill and infirm. The same article reports that it was Hamas' "military wing" that has "claimed responsibility for numerous attacks on Israelis in recent years," yet "Hamas leaders deny any role" in the suicide bombing in a Jerusalem market place in July 1997, killing fourteen.

A careful reading of interviews and statements made by militant Islamic leaders themselves show a different picture. Sheik Omar Bakri is leader of the al-Muhajirun Group based in London. In a December 1997 interview on the tourist attack in Luxor, Egypt in the Cairo "Rose al-Yusuf" publication, Bakri shed light on the thinking of militant Islam and on its fundraising apparatus. Bakri stated that democracy is inconsistent with Islam because "it considers the vote of Abu-Bakr al Siddiq [a Muslim Caliph] as equal to the vote of any prostitute woman," that "God ordered us to fight those who obstruct the implementation of his laws," and that

³²The Holy Land Foundation for Relief and Development: Programs & Objectives. "Human Services." P.9. Advanced Express Printing: Dallas (MAYA Conference Dayton, Ohio December 21-24, 1996)

³³Anti-Defamation League. "Hamas, Islamic Jihad and the Muslim Brotherhood: Islamic Extremists and the Terrorist Threat to America." 1993.

³⁴Gordon, Evelyn. "Holy Land Foundation Must Close." The Jerusalem Post. May 20, 1996.

³⁵Ibid.

he received military training because "fighting is every Muslim's duty." Bakri stated he based his views on the Koranic verse: "And fight them until there is no more sedition and justice and faith in God prevail."

Asked his position on the killing of tourists in the Luxor massacre, Bakri answered: " * * * the tourists went to Egypt with manners and conduct that conflict with those of Islam, the manners of alcoholism, indecency, and gambling. These people are out of line with Islam and I cannot discuss their business. We believe in the principle of establishing shari'ah [Islamic law] even if this means the death of all human beings."

The interviewer reported: "Alarmed, I asked him: Even if this leads to the death of all humans? He confidently replied: Even if this leads to the death of all mankind." Much of Bakri's interview centered on the support his organization gives to the militants in Egypt trying to overthrow the Egyptian regime and install an Islamic government. It was in this context that Bakri stated that his group channels monies from Britain to the families of extremists in Egypt. When asked by the interviewer how this financial channel is established, Bakri replied: "The donations reach through networks that include individuals, companies, and charities. We do not want to delve into details. We send donations to all parts of the Arab World and the Islamic World * * *."

Bakri revealed that the London police summoned him for interrogation after the Luxor attack. He denied during the interrogations that his organization sent donations to military operations in Egypt. The police however, according to Bakri, looked through his organization's recordkeeping of donations, as required by British law. Bakri stated that the donations are received from "Egyptian and Gulf businessmen and from companies and establishments in line with British laws," and that "the British authorities oversee all written documents and registers."

Bakri made two statements in this interview of particular relevance. First, that "All funds are sent only through companies and registered charitable offices. I do not rule out the possibility that some funds reached indirectly the brother mujahideen who endorse armed action." Second, that "Some funds are sent to families of the extremists and are not registered because they come from abroad and go abroad. And since they are not deposited in Britain, we do not have to register them."

Dr. Ibrahim al-Yazuri is one of the founders of Hamas. In an interview published in the January 1998 edition of the London-based magazine *Filastin al-Muslimah*, al-Yazuri analyzed the role of social work in the framework of the Islamic Resistance Movement. Al-Yazuri stated that "Hamas is a Palestinian jihad movement that strives for the liberation of all Palestine—from the [Mediterranean] sea to the river [Jordan], from the north to the south—from the tyrannical Israeli occupation * * * Social work is carried out in support of this aim, and it is considered to be part of the Hamas movement's strategy. The important thing is that Hamas engages in its sacred struggle against the forces of evil and the Israeli usurpation."

Al-Yazuri continued:

"The Hamas movement is concerned about its individuals and its elements, especially those who engage in the blessed jihad against the hateful Israeli occupation, since they are subjected to detention or martyrdom. The movement takes care of their families and their children and provides them with as much material and moral support as it can. This is one of the fundamental truths of Islamic work, and thus represents the duties of the Islamic states * * * in accordance with the word of God's Prophet, God bless him and grant him salvation, which means: 'He who looks after the family of one who has gone to fight has himself fought.'"

Among the types of activities Hamas provides, according to al-Yazuri, are for example, assistance to orphans in Gaza and "study essentials" to "needy students and sons of martyrs." He also noted the "pure social role" that Hamas plays, such as Islamic singing and celebration groups. The purpose of all this activity, stated al-Yazuri, is "attracting and winning support and blessing from our Palestinian people on the street for the Hamas movement."

Al-Yazuri, who in this interview referred to suicide bombings as "martyrdom operations," stated: "I should say that the funds set aside for social work are set aside for this work only. Not a single penny goes to any other purpose. As for military work, it has its own apparatus and its own budget, and we have not the least knowledge of this."

Though al-Yazuri indicated a separation between the military and social work financial mechanisms, in a January 1998 interview on Israeli television, Hamas leader Sheik Ahmad Yassin stated the Hamas military brigades "have commanders who issue their orders on the basis of the political date they receive from the politicians. There never will be anything without a leadership, but the political leadership is separate from the military leadership for various security reasons of which you are

aware. We have suffered many blows from the Israelis as a result of the connection between the two leaderships."

AMERICAN ISLAMIC GROUP (AIG)

The American Islamic Group (AIG), based in San Diego, California, purports to be a "non-profit, non-sectarian, religious service institution primarily established to protect the rights of Muslims and to provide economic, humanitarian, education assistance" to needy Muslims.³⁶

Despite its humanitarian and civil rights-oriented veneer, AIG is in fact, an extremely radical Islamic organization, dedicated to establishing Islamic States around the world. The rationale behind AIG's mission is simple: "Since the establishment of the rule of Allah is the necessary prerequisite to fulfilling the final duty of judgement and government, its establishment is, of course, obligatory."³⁷ AIG takes this obligation very seriously, and is working through a number of means, to promote the creation of Islamic States. An integral element of AIG's work involves promoting violent attacks on Jews, moderate Muslims, and any other "enemy of Islam."

On its e-mail postings and in its publications, AIG disseminates communiqués of Middle Eastern terrorist organizations, the most prominent of which are the Armed Islamic Group of Algeria (known as the GIA) and the Gamaah Islamiyya of Egypt. AIG distributes its literature and maintains contact with its supporters primarily via the internet. Its e-mails reach a wide audience through postings on the Muslim Student Association (MSA) e-mail lists.

The American Islamic Group periodically publishes its radical magazine, *Islam Report*, on the internet as well. The stated purpose of *Islam Report* is to "expose and analyze threats against Islam and Muslims worldwide."³⁸ In reality, *Islam Report* is a clearinghouse for AIG's militant Islamic propaganda. It is a vehicle through which AIG supports some of the bloodiest terrorist organizations in the Middle East.

One of the most radical groups endorsed by the American Islamic Group is the GIA, a terrorist organization whose *raison d'être* is the overthrow of the "un-Islamic government" of Algeria—and the establishment of an Islamic State. To achieve its goal in Algeria, the GIA has slaughtered thousands of Algerians and French expatriates. In just two months, from June through the end of July 1997, GIA slaughtered over 700 innocent Algerian civilians.³⁹ In August 1997, GIA slit the throats of over 300 non-combatant Algerian men, women and children. The GIA carried out a series of bomb attacks in France in 1995, which killed seven and injured over 170 persons.⁴⁰ In 1995, the Armed Islamic Group (GIA) joined forces with the Islamic Salvation Front (FIS) in the effort to overthrow the government.⁴¹ Together, these organizations terrorize the Algerian population.⁴²

According to the American Islamic Group, GIA is "the only legitimate leadership of Muslim resistance in Algeria."⁴³ The reports of the numerous atrocities committed by the GIA—including a particularly gruesome attack in which GIA members kidnapped seven French monks and decapitated them—appear daily on the *Islam Report*. AIG is proud of these atrocities, and commends the GIA for its terrorism in Algeria.

AIG is also among the most outspoken supporters of Sheikh Omar Abdel Rahman, the mastermind of the World Trade Center bombing in 1993. Abdel Rahman was tried and convicted in 1995, for his role in this terrorist attack, and is currently serving a life sentence.

Prior to coming to the United States and masterminding terrorist attacks on U.S. soil, Sheikh Omar was the head of the Egyptian Gamaah Islamiyya, an organization dedicated to toppling the current Egyptian Government and replacing it with an Islamic government. The terrorists who assassinated former Egyptian President Anwar Sadat were members of the Gamaah Islamiyya.

³⁶ *Islam Report*, April/May 1994.

³⁷ *Islam Report*, April/May 1994.

³⁸ *Islam Report*, April 1996.

³⁹ Paris AFP, August 7, 1997.

⁴⁰ Reuters, November 26, 1995.

⁴¹ *Islam Report*, January 23, 1995.

⁴² Even journalists are not protected from the carnage. Mourad Si Ahmed, the former head of the GIA accused Algerian journalists of collaborating with the secular government, and threatened that those who fight Islam "by the pen" would "die by the sword." *Agency France Presse*, January 6, 1995.

⁴³ *Islam Report* on MSA news, "Al-Qital Newsletter," May 12, 1996.

AIG raises money for Abdel Rahaman's legal defense, posts editorials on the internet decrying the Sheikh's treatment in prison, and claims Abdel Rahman is innocent and falsely accused because he is Muslim.⁴⁴ According to the American Islamic Group, the Sheikh's conviction was an attack on Islam.⁴⁵

In 1996, Islam Report carried a communiqué from the Gammah Islamiyya claiming responsibility for the attack on a Cairo hotel which killed 18 and injured 25. The attack was revenge against "the sons of monkeys and pigs and the worshipers of evil—the Jews—and to avenge the deaths of the martyrs in Lebanon."⁴⁶

In addition to its extremely close ties to the Armed Islamic Group and the Gamaah Islamiyya, AIG is a major supporter of the Afghani mujahideen [holy warriors] in their struggle to establish an Islamic state in Afghanistan. Islam Report regularly features a section entitled "Theaters of Jihad," in which it provides a comprehensive and highly sympathetic update of the ongoing military operations of the Mujahideen against the "un-Islamic" government of Afghanistan.⁴⁷

AIG has published emails from militant Islamic organizations calling for the killing of Israelis.⁴⁸

In 1996, AIG published an exhortation for Muslims to kill Jews: "O Muslim, slave of Allah, there is a Jew behind me, come and kill him."⁴⁹

The American Islamic Group has asserted that Jews were "not real human beings," AIG claimed that the Torah was a forgery, and Jews were the "enemies of Allah."

"Let us then look to the Jews of our present time. *The news of their repeated plotting even on the Torah and Talmud, which they have forged* * * * [makes it] possible for *the Jews, the enemies of Allah*, to plot on the basis of the issued rabbinical order that is found in the forged Torah—which may not be credible."⁵⁰

When Mujahideen (holy warriors) are martyred (die in battle), AIG collects money, and provides financial support to their families.

"Go ye forth, whether equipped lightly or heavily, and perform Jihad and struggle with your money and your persons, in the cause of Allah. That is the best for you if ye know.' Victory for Mujahideen [holy warriors] will only come for the Almighty, however every Muslim must do his part in support of mujahideen Operations, in support of Mujahideen Families, in support of Martyrs Families, and in support of Muslim prisoners * * * send your contributions and Donations in the cause of Allah the Almighty to: The American Islamic Group."⁵¹

In addition to direct solicitation, AIG generates money for Sheikh Omar's legal defense fund by selling tapes of his pre-sentencing speech. This excerpt of Sheikh Omar's speech appeared in the Islam Report with instructions on how to purchase the tapes. Sheikh Omar's sentiment echoes AIG's belief that there is a conspiracy in America against Islam.

"For more than one hundred years, the United States has been waging a war on Islam * * * America's harm and ill-treatment of Islam is nothing new, and what we see in this case is the latest of harms to Islam, and the ugliest, most hideous in its extent and effect. It is a plan put together by America * * * an assault on the words of Allah * * * What greater aggression there is after that? * * * Muslims and others are now aware that America wants to kill Islam and destroy the Qur'an because all that all have done is preaching Islam * * * everyone, led by America, have united to isolate and weaken Muslims, and the whole plan is for destroying Muslims."⁵²

THE ISLAMIC JIHAD

From at least 1991, one of the world's most lethal terrorist factions was based out of the City of Tampa, and a network of think tanks at the University of South Florida (USF) and operating university-affiliated think-tanks and study-centers. The terrorist formula was simple and lethal: Use the laws, the freedoms, and the loopholes of the most liberal nation on earth to finance, and direct one of the most deadly campaigns of bloodshed in the history of international terrorism. The strategy was one of absolute legitimacy and secrecy. The method of setting up a terrorist in-

⁴⁴ Islam Report, March 27, 1996, Islam Report, April 4, 1996.

⁴⁵ Newsday, February 14, 1995.

⁴⁶ Islam Report, April 20, 1996.

⁴⁷ For example: Islam Report, March 13, 1996, Islam Report, March 15, 1996, Islam Report, May 12, 1996.

⁴⁸ Islam Report, April 14, 1996.

⁴⁹ Islam Report, April 20, 1996.

⁵⁰ Islam Report, "The Jews of '94 Plot against the Torah," from the Arabic, April/May 1994.

⁵¹ Islam Report, "Theaters of Jihad," April/May 1994.

⁵² Islam Report, January 9, 1996.

frastructure in the United States was ingenious, involving an elaborate masquerade of legitimacy, achieved through the guaranteed academic and religious freedoms of expression, and the inalienable right to free speech. Each aspect of their operation, from establishing decision-making headquarters in Tampa, to conferences where funds were raised, was protected by a veil of ambiguous connections that called into play their basic freedoms and inalienable rights.

The crucible in the elaborate web of networks, fronts and operational guises was Sami Al-Arian, an engineering professor who came to the University of South Florida in 1986 to teach computer science and engineering. One of Al-Arian's first tasks was founding the Islamic Committee for Palestine, or ICP (it was also known as the Islamic Concern Project), a religious charity group that served, ostensibly, as a clearing house of thought and knowledge to promote Islamic thinking. It also served as the secret front group for the Islamic Jihad. Al-Arian also served as the administrative director for the World and Islam Studies Enterprise (WISE), an alleged and self-described think-tank on Islamic thought and policies that had been affiliated with the University of South Florida for several years. In fact, the affiliation was a full-fledged working relationship, with the USF co-hosting forums, training WISE-sponsored graduate students, and sharing university resources and libraries.

Al-Arian was also the leader of the Masjid Al-Qassam Mosque, located in North Tampa, named for Izzadin Al-Qassam, a martyr to Palestinian nationalism who was killed in 1935 by British forces in Palestine. In fact, the name Izzadin Al-Qassam is used by Hamas, the Islamic Resistance Movement, as the title for its murderous military brigade responsible for scores of suicide attacks inside Israel. Located near the University of South Florida, the mosque had no official name until 1989, two years after Al-Arian's arrival in south Florida. In an internal power struggle between the traditional leaders of the mosque, and zealous newcomers (such as Al-Arian and another Palestinian and another WISE director, Mazen Al-Najjar) turned violent and involved an investigation by the Hillsborough County Sheriff's department. In interviews to local newspapers, Al-Arian declined any link between the name of the Al-Qassam and the Hamas terrorists, though he did say that "Al Qassam was a historical figure that people admired who became a symbol in Palestine of the first to resist and fight for freedom. He was strengthened by religion and devotion to God." While, Islamic studies experts agree, the name "Al-Qassam" is rare among mosques, the Al-Qassam mosque in Gaza is a known epicenter for terrorist activity and Hamas and Islamic Jihad recruitment.

Mr. Al-Arian was also the editor of "Inquiry," the official ICP magazine which served as an ideological propaganda arm. Inquiry routinely ran incendiary attacks on Jews and the United States. In a piece, edited by Al-Arian, the following passage was included, "The mistake of the Jews of today who occupy Palestine was made as well by the Roman aggressors of 933 AD is to underestimate the faith in Allah of our people in resisting all forms of evil, tyranny and aggression. Our Jihad is the greatest weapon we have which no nation or Zionist can take away. It is greater than the Japanese suicide Kamikaze missions for ours is for Allah and He is the greatest." In another issue of "Inquiry," in an interview, with M.T. Mehdi, a New York based Muslim leader, the following passage is included: "I said so, in a book of mine in 1960, that the head of the snake is in America and the tail of the snake is in Palestine. The Arabs and Muslims for the last forty years have been fighting the tail of the snake and forgetting the head of the snake, which is America. Of course, it is not impossible to kill the snake by fighting the tail. I pleaded with all the Arab leaders, intellectuals, Kings, Queens, President and Politicians, that the battleground for the liberation of Palestine is in America, even before being in Palestine."

The 1994 Spring issue of "Inquiry" carried an advertisement for the "Islamic Fund for Palestine"—a tax-exempt wing of the Islamic Committee for Palestine organization—soliciting donations for Moslems in Palestine facing great hardships from the brutal Zionist Occupation. According to ICP documentation, in pushing devotees to donate money to the Islamic Fund for Palestine, the fund would help the families of those who have been martyred (killed in the struggle with and in attacks on Israeli targets) and those who are detained by Israeli security personnel. Tape recordings of conferences organized by ICP show that funds were solicited in the United States for the explicit purpose of "sponsoring martyrs." At the ICP organized Chicago conference held in 1990, one speaker enumerated the "operations"—i.e., terrorist attacks—carried out Islamic Jihad martyrs: "We are giving you a list of 16 martyrs. Some of these died in amphibious operations. Some died in assault operations. The families need your assistance. Each martyr needs \$1,000. Is there someone here to sponsor ten martyrs?"

From the safety of his University position, Al-Arian and colleague, Ramadan Abdullah Shallah, organized the multiple activities of the Islamic Jihad. This in-

cluded publication and distribution of an Islamic Jihad newsletter called "Islam and Palestine," which sometimes carried Islamic Jihad communiqués in its pages, as well as interviews with Islamic Jihad leaders. Issues, dated from 1989 to 1991, included a dead-drop mailing address on Cyprus, as well as a post office box in Tampa also used by the ICP and WISE.

ICP's primary goal was serving as the primary support apparatus for the Islamic Jihad in the United States. In rallies where militant leaders from around the world were brought to the United States to deliver fiery sermons and to coordinate terrorist strategy, the ICP organized annual conventions and conferences in various U.S. cities, notably Chicago, St. Louis and Cleveland. An extensive review of more than 40 hours of recordings from five major conferences between 1988 and 1992 shows that these conferences: (1) Brought into the United States leaders of militant Islamic terrorist groups from all over the world including Egyptian militant Sheikh Omar Abdul Rahman (later convicted in the World Trade Center bombing) and others representing Hizzbullah, Sudanese National Islamic Front, Tunisian An-Nahda, Hamas and Lebanon's Tawheed; (2) Raised money for Islamic Jihad "charities" and other terrorist front organizations and "tax exempt" foundations; and (3) Presented platforms for overt and covert calls and plans to commit terrorist acts against Israeli, Egyptian, Tunisian, Algerian, and American targets.

The rhetoric was voluminous, incendiary, and openly called for terrorist attacks against Israel and its western backers. Al-Arian together with colleagues Shallah, Bashir Nafi and Mazzen al Najjar organized the conferences, aligned the speakers, and recruited and secured visas and other immigration forms needed to bring a literal who's who of terrorism to the U.S. At one rally, held in 1991 conference organizer Al-Arian warmed up a crowd of as many as 300 supporters with calls for Jihad and calls for "Death to Israel." A special guest was Islamic Jihad spiritual leader Sheikh Abdel Aziz-Odeh, whose very appearance helped raise additional thousands of dollars for the cause. Other conferences routinely featured open calls for a holy war to be waged against Israel and the west.

At the Fourth Annual ICP conference, for example, held in 1990, Abdel Azziz-Odeh delivered these chilling words, "A struggle of life and death, that we are leading today, with the forces of arrogance, is manifested in Israel, which has been implanted on Palestine. * * * The Jews are not giving up anything * * * They understand only one language: The language of Jihad, and the language of confrontation, and the language of sacrifice."

Interestingly enough, evidence uncovered at the World Trade Center bombing trials indicated that Sheikh Abdel Aziz-Odeh met followers of Sheikh Omar Abdul Rahman at New York's John F. Kennedy International Airport prior to the bomb blast to discuss terrorist acts on American soil. Odeh remains today the only unindicted co-conspirator in the deadly February 26, 1993 bombing in New York City.

Two years later, once Al-Arian's activities became the subject of a federal counter-terrorist investigation, federal officials learned that Al-Arian had placed "numerous" phone calls from his ICP office to the Iranian Interest Section in the United States and to the Sudanese Embassy—both of which countries are on the official State Department list of nations supporting international terrorism.⁵³ Al-Arian also made a series of calls to Siraj El-din Yousif, a Sudanese diplomatic operative in New York later implicated in and expelled for participating in the second series of attempted bombings in New York following the bombing of the World Trade Center in lower Manhattan.⁵⁴

A review of ICP tapes and publications shows that its activities in the United States focussed on raising money connected to Islamic Jihad—which was not prohibited by U.S. law until passage of the 1996 anti-terrorism bill—unless the monies were found to directly pay for bullets or direct support of terrorist operations as opposed to the surrounding tier of support for the social, religious and political institutions of the Islamic Jihad. Perhaps even more important was the central political role that Al-Arian and his colleagues had in fronting for the Islamic Jihad's command and control apparatus in the United States. At one ICP gathering, the ICP is actually identified as the active arm of the Palestine Islamic Jihad in the United States. In that capacity, Al-Arian and his colleagues coordinated the visits of leading militant Islamic leaders as well as maintained active relationships with terrorist leaders and other organizations.

Sheikh Abdel Aziz-Odeh, like Sheikh Rashid el-Ghanoushi, the Tunisian fundamentalist leader (called by some the "would-be Ayatollah of Tunisia") convicted

⁵³ Affidavit of William D. West, United States Department of Immigration and Naturalization Service, November 17, 1995, United States District Court, Middle District of Florida, Tampa Division.

⁵⁴ Ibid.

in absentia of attempting to overthrow the government and Sudanese fundamentalist leader Hassan Turabi were all brought to the United States by the ICP and WISE to speak at such conferences, raise the fervor of the existing militant community, and raise large sums of cash from U.S. based supporters. The ICP, under the guise of being a religious and benevolent office, was actually a fundamentalist underground railroad. Sheikh Odeh, for example, had visited Sami Al-Arian in Tampa several times, shuttling back and forth from his offices in Damascus, Syria, and the United Arab Emirates.

Another speaker at the 1991 Chicago ICP conference, and one of the most remarkable figures in this intricate web was Ramadan Abdullah Shallah, a co-founder, along with Fathi Shikaki, of the Palestinian Islamic Jihad. Ramadan Abdullah Shallah's meteoric rise to power in the ranks of the Palestinian fundamentalist Islamic movement began in Egypt in 1981, where as a student he joined forces with another Palestinian, Fathi Shikaki, to found the precursor Islamic fundamentalist movement of the Islamic Jihad organization. Returning to Gaza, Shallah lectured at the Islamic University where he developed the reputation as a fire-branding preacher who captivated his audiences. Shallah obtained his masters and doctorate from the University of Durham, in Great Britain, and in 1991, began his "stay" in Tampa where he would ultimately become a part-time professor of Middle East studies at the University of South Florida in Tampa. He also served as an officer, state corporate records prove, with the ICP, and the administrative director for WISE. Abdullah's brother, Omar Shallah, is also no stranger to the dangerous world of terrorism, either. In 1995, a Palestinian court sentenced him to a lengthy prison term for recruiting Palestinian youths to carry out suicide attacks against Israelis.

The public links between the ICP and WISE and the true fabric of the Islamic Jihad's command echelon remained covert until finally exposed following the assassination, on October 26, 1995, of Islamic Jihad leader Dr. Fathi Shikaki in Malta. Shikaki, the organization's operations chief in Damascus, had run terrorist cells in the West Bank and Gaza Strip, and had issued tactical directives, often forwarded from Tampa, to his forces in the field. On Monday October 30, 1995, an Arabic-language newspaper published in Jerusalem confirmed that while in the United States, Ramadan Abdullah Shallah had, indeed, acted as the deputy leader of Islamic Jihad, serving as the No. 2 man in the organization. Most troubling to U.S. law enforcement officials was the fact that Shallah has been the terrorist group's second-in-command for an incredible five years before he succeeded Fathi Shikaki in October 1995. It was during that time period, as Islamic Jihad deputy commander, that Shallah taught at the University of South Florida and served as director for WISE.

Ramadan Abdullah Shallah's masquerade as an academic was shattered when news clips showed him meeting the Syrian air jetliner bringing Fathi Shikaki's body back to Damascus, along with a full military honor guard and announcing him as the organization's newly elected leader. He delivered a fiery attack on Israel and the United States threatening to unleash waves of terrorism. It was a particularly daunting sight to military officers at MacDill Air Force Base, near Tampa, as well. On two previous occasions, Shallah had, as a result of the respect and status obtained as a WISE official, been invited to brief U.S. Central Command (Centcom).

Following Shallah's ascent to the overt reigns of power of the Islamic Jihad, officials at the University of South Florida went out of their way to defend both Shallah and Al-Arian, and to claim that the connection between the University of South Florida and ICP and WISE was a purely academic one and that no one ever suspected Shallah of being a clandestine leader of the Islamic Jihad. In fact, everyone began playing a game of charades. University Administrators preceded that they knew and saw nothing that would have alerted them—but in fact the University had been warned during the previous four years that something strange and politically suspicious was going on at WISE. Evidence was actually offered to the University showing that a radical Islamic cell had been implanted in their midst; but the administrators preferred to ignore the evidence. At the same time, Shallah's boss, Sami Al-Arian, claimed in a demonstratively false interview that he did not know about Shallah's background (notwithstanding the fact that Al-Arian and Shallah were behind the Islamic Jihad apparatus in the United States for at least the previous five years). Finally, professorial colleagues of Shallah, such as Arthur Lowrie, a fierce apologist for militant Islamic and Arab extremist, contended that they were "surprised" by Shallah's new found employment. The only problem with Lowrie's denial was that Lowrie held views almost as radical as Shallah—and Lowrie had become so enamored of the militant anti-American Arab position that he sometimes articulated positions more extremist than those held by the extremists themselves.

The uncovering of the Islamic Jihad's Tampa connection opened a Pandora's box of federal law enforcement investigations into the ICP, WISE and the professors and teachers working at USF and at the Muslim think-tanks and religious centers. In

November 1995, two Florida bank accounts—totaling some \$17,000—belonging to Ramadan Abdullah Shallah were frozen under a presidential order.

On Monday, November 20, 1995, federal officials searched the home and campus office of USF Professor Sami Al-Arian under search-warrant for such offenses as violations of federal perjury and other immigration-related infractions. In the affidavit of William D. West, a Special Agent with the United States Immigration and Naturalization Service (INS), it was revealed that, on applying for citizenship in the United State, Al-Arian had, in a signature performed under penalty of perjury, failed to list organizations which he belonged to prior to his arrival in the United States, and during his residence in the United States, as a permanent resident alien. In applying for U.S. citizenship, Al-Arian had, under the penalty of perjury, listed the "Islamic Society of North America," the "Islamic Community of Tampa," the "IEEE" and the "IEEE Computer Society" as the sole organizations to which he belonged. He failed to list either ICP or WISE, even though Al-Arian had been listed as the founding officer for both, and both organizations were incorporated in the State of Florida prior to the submission of Sami Al-Arian's application for naturalization and the INS processing of that form.

A subsequent search of Ramadan Abdullah Shallah's immigration files revealed additional discrepancies. Shallah had been in the United States on an H-1 temporary specialized worker who would be based at the WISE address in Tampa; Al-Arian, documents, proved, had petitioned on behalf of Shallah. Another WISE official whom Al-Arian petitioned for was one Basheer Nafi, who was also in the United States, on behalf of WISE, as its "director of research."

Basheer Nafi was no ordinary researcher lending his invaluable knowledge to a university-allied think tank. Although a professor of Arabic at the USF, Nafi was, according to reports in the Amman, Jordan, newspaper Al-Urdan, one of the leading commanders in Islamic Jihad who had not been selected as heir apparent to the murdered Dr. Shikaki. As was the case of Ramadan Abdullah Shallah, one does not reach the pinnacle of terrorist power without being a major player in that organization for some time. Other information acquired by law enforcement showed that Nafi was indeed a major "player" in the Islamic Jihad organization. Nafi was arrested in June 1996 by U.S. INS agents outside of the International Institute of Islamic Thought in Herndon, Virginia, for violating his visa-stipulation that WISE would be his employer. He was soon deported. (The International Institute of Islamic Thought, controlled by the S.A.A.R. Foundation—a billion dollar Saudi international conglomerate—was found to be a major source of funds to ICP and WISE.)

Another WISE board member also under federal investigation, and in federal custody, as a result of government scrutiny of the Al-Arian, ICP, and WISE was Mazen Al-Najjar, another University of South Florida teacher responsible for running the day-to-day operations of WISE. He is currently awaiting deportation in immigration-fraud charges, including perpetrating a fictitious marriage, constructed by one Taiseer Abu-Zarka, to an American citizen on the sole grounds of obtaining permanent resident status in the United States. In an immigration hearing held in July 1996, INS Special Agent William West testified that Al-Najjar was a "mid level operative" in both ICP and WISE, which in turn were deemed "front groups" for the Palestine Islamic Jihad in the United States.

As a WISE official, Al-Najjar signed many of the organization's checks, including those paid to Shallah that covered the time of his employment in the USF allied think tank. Other evidence seized from the WISE and ICP offices in regard to the Mazen Al-Najjar INS court case include: Islamic Jihad fax communiques announcing the "martyrdom" of a battalion leader in 1992, and claiming credit for an attack on Israelis; detailed biographies of Hizbollah, Hamas and Islamic Jihad leaders; and, an ICP draft charter which contained incendiary provisions calling for destruction of Israel and aggressively confronting the West.

When agents descended on the ICP/WISE office, as well as Al-Arian's home once search warrants were obtained, they uncovered computer files, bank records, faxes, internal records and audio and video-tapes. Federal agents carried out over twenty boxes of items from Al-Arian's home, and the ICP and WISE offices. Also seized among Al-Arian's files was a copy of a sealed complaint of the requested extradition of Hamas political chief Dr. Musa Abu Marzuk, then being held in detention in New York City during deportation proceedings. Material uncovered in the search of Al-Arian's home and office played an instrumental role in untangling much of the intricate web of deceit, covert and legitimate front operations that, for years, had hid the activities of the ICP, WISE and the Islamic Jihad from public view.

Additional letters and material seized by federal agents from Al-Arian's home included a letter in which funds are solicited for the Islamic movement in Palestine. The solicitation letter states that despite obstacles, the Islamic movement operates at a time when combined scores of Arab armies fail to accomplish its goals, and the

Hamas brothers continue improving. This letter also appeals for support for the Jihad so that the people will not lose faith in Islam.

As a result of the potentially embarrassing disclosure of Islamic Jihad maintaining a USF-supported quasi-American headquarters, there has been an attempt to down-play the violent reality of the Islamic Jihad as a terrorist organization, and even to dilute the true connection between ICP, WISE and Islamic Jihad, though records recently released by the federal government indicate that Tampa wasn't just a convenient "home-away-from-home" for the Damascus-based terrorist group, but an actual command-and-control headquarters. Khalil Shikaki, the brother of gunned-down Islamic Jihad commander and one of the founders of the movement, was also an adjunct professor for the University of South Florida in 1992.

In letters—released by the FBI—between Khalil Shikaki and Ramadan Abdullah Shallah, there are references to "Abu Omar," the Hamas nom de guerre of political chief Musa Abu Marzook. In other internal correspondence released by the FBI, there are internal letters between Shallah and the United Association for Studies and Research (UASR), Hamas' strategic arm in the United States. In the letter Shallah requested, in regard to an ad WISE sent to the UASR, "because of the general situation, we prefer not to publish it or take any steps that gives the idea that both institutions are connected to each other, something that would cause damage to one or both of them * * * I wish that the contact and the cooperation remain undisclosed.

Professor Khalil Shikaki possessed such an impassioned voice for moderate political solutions to the Middle Eastern problems that it prompted the USF to finalize its cooperative relationship with WISE. Yet documents seized by federal officials uncovered a wealth of information, including incriminating letters, proving Khalil Shikaki using Shallah as a courier to ferry information, messages and even operational materials to his brother Fathi in Damascus, head of Islamic Jihad. When publicly asked however, Khalil always maintained he had no contact with his brother.

THE AMERICAN MUSLIM COUNCIL

Although AMC claims it is against "violence and terrorism," its publications, conferences and internal materials tell a different story. AMC has repeatedly championed and supported Hamas and its leaders, routinely declaring Hamas "is not a terrorist group" and claiming that U.S. efforts to clamp down on terrorist funding in the U.S. are "anti-Islam." Following the 1995 arrest of Hamas terrorist commander Musa Abu Marzuk, then-executive director Abdulrahman Alamoudi became Marzuk's primary defender. "I know the man, he is a moderate man on many issues," Mr. Alamoudi was quoted in the Washington Post adding, "This [arrest] is an insult to the Muslim community."⁵⁵ Soon, Mr. Alamoudi began organizing Marzuk's defense fund. In 1996, Alamoudi stated on Arabic television, "I have known Musa Abu Marzuk before and I really consider him to be from among the best people in the Islamic movement, Hamas * * * I work together with him."⁵⁶

The AMC has provided office space to the Algerian Islamic Salvation Front, organized press conferences for visiting officials of the Sudanese National Islamic Front (an organization defined as "terrorist" by the State Department Terrorist), lauded the electoral victory of the radical Islamic Turkish Refah Party known for its open anti-Semitism and anti-Americanism, championed the radical Iranian-trained anti-American mujahideen (holy warriors) in Bosnia, portrayed President Clinton's meeting with Salman Rushdie as an insult to Muslims comparable to the Holocaust against the Jews, and attacked the media for exposing militant Islam's repression of women and their human rights.

CONCLUSION

In December, 1996 and December 1997, the full strength of the radical Islamic groups could be seen once again—this time at their unprecedented annual conferences held in various cities: Toledo, Ohio; Chicago, Illinois; Detroit, Michigan; Somerset, New Jersey; Orlando, Florida; Los Angeles and Ontario, California;

⁵⁵ Washington Post, July 28, 1995.

⁵⁶ Interview with Abdulrahman Alamoudi, March 22, 1996 Middle East TV interview with Alamoudi of the American Muslim council. Alamoudi: "Yes, I am honored to be a member of the committee that is defending Musa Abu Marzuk in America. That is a mark of distinction on my chest * * * I have known Musa Abu Marzuk before and I really consider him to be from among the best people in the Islamic movement Hamas, eh * * * in the Palestinian movement in general, and I work together with him."

In the end, Islamic radicals have used the United States primarily as a safe haven to carry out activities that they would be prohibited from carrying out in their homelands. On the one hand, these groups are fully cognizant of the fact that should they draw too much unwanted and negative attention to their activities in the United States, it might jeopardize their status and relative immunity from overt scrutiny and freedom to operate unimpeded. On the other hand, the very premise of the Islamic groups' ideological identity is a hatred toward the United States, the West and to other "declared enemies of Islam." This delicate balance between the two conflicting emotions—torn between the need to keep the U.S. safe to organize Jihad and the need to carry out Jihad against the U.S.—is the principal determinant of when Islamic terrorism is carried out. When the rage of the fundamentalists exceeds the self-restraint, that's when terrorism is likely to be carried out in the United States.

The very fact that the top terrorist leaders of both Hamas and the Islamic Jihad radical groups were found to have been living in the United States should disabuse anyone of the notion that militant Islamic organizations are not using the United States for safe haven. FBI director Louis Freeh testified for the first time on the record that Hamas raises "substantial cash funds from the United States to areas in the Mid-East where we could show Hamas receipt and even expenditure of those funds".⁵⁷ Both Hamas and Islamic Jihad have not only raised considerable amounts of funds in the United States but have also set up operational headquarters in the U.S. where terrorist attacks and military strategies have been orchestrated. In turn, both Islamic Jihad and Hamas have succeeded, in large part, in establishing their support infrastructure because both groups have networked together with other militant Islamic groups.

The culmination of this pan-Islamic militant partnership may have been seen in the World Trade Center bombing: Rather than being an attack dominated by the militant Islamic Jama from Egypt, evidence now shows that the bombing was the product of collaboration from five different radical Islamic organizations, including the Gama Islamiya, Islamic Jihad, al-Fuqra, Sudanese National Islamic Front and Hamas. The scope and breadth of these militant Islamic groups should demonstrate unambiguously that while not coordinated formally on an operational level, the militant Islamic groups network with one another in a sort of terrorist "Internet". At virtually every place on the globe today—Paris, Rome, Dallas, New York or Manila, Peshawar, Gaza, Beirut and Khartoum—militant Islamic groups can network with one another in receiving or providing assistance, obtaining safe haven, and generating mutual support for all of their activities.

The absence of a traditional hierarchy within these terrorist groups has now created a new terrorist paradigm. In 1995 (April 6) testimony before the Senate Judiciary Committee, then-acting director Admiral William Studdman stated that the "[Islamic] groups are even more dangerous in some ways than the traditional groups because they do not have a well-established organizational identity and they tend to decentralize and compartment their activities. They are also capable of producing more sophisticated conventional weapons as well as chemical and biological agents. They are less restrained by state sponsors or other benefactors that are the traditional groups. These new groups appear to be disinclined to negotiate, but instead seek to take revenge on the United States and Western countries by inflicting heavy civilian casualties. The World Trade Center bombers are prime examples of this new breed of radical, transnational, Islamic terrorist."

ATTACHMENT 1.—THE COUNCIL ON AMERICAN ISLAMIC RELATIONS (CAIR): A CASE STUDY OF DECEPTION: A MILITANT ISLAMIC GROUP IN SHEEP'S CLOTHING

CAIR officials and AMC have engaged in repeated campaigns to defame journalists and slander writers and officials who speak out against militant Islamic terrorism and fundamentalist violence. It is clear from a review of CAIR's statements and activities that one of its goals is to further the agenda of radical Islamic terrorist groups by providing political support. By masquerading as a mainstream public affairs organization, CAIR has taken the lead in trying to mislead the public about the terrorist underpinnings of militant Islamic movements, in particular Hamas.

CAIR has defended the terrorist regime of the Sudan (which is engaged in a genocidal holy war against Christians), the Hamas terrorist organization and its leader Musa Marzouk, and coordinated and sponsored visits of known international radical fundamentalists, including those that have called for the killing of Jews.

⁵⁷ Testimony of FBI Director Louis Freeh, March 12, 1996 Foreign Operations Subcommittee of the Senate Appropriations Committee.

CAIR has sponsored visits of Islamic extremists in the United States. For example, the September 1994 issue of CAIR News reports that CAIR coordinated a series of meetings for Bassam Alamouh, a Jordanian Islamic militant, with U.S. government officials. At the Muslim Arab Youth Association (MAYA) conference in Chicago in December 1994, Alamouh called for the killing of Jews. According to a video of Alamouh's speech, he said, "Somebody approached me at the Mosque [in Amman] and asked me, 'if I see a Jew in the street, should I kill him?'" After pausing a moment with a dumbfounded face, Alamouh answered the question to a laughing crowd: "Don't ask me. After you kill him, come and tell me. What do you want from me, a fatwa [legal ruling]? Really, a good deed does not require one." Later in the speech, Alamouh was interrupted by an aide with a note "good news * * * there has been a suicide operation in Jerusalem" killing three people. Thunderous applause followed his statement.

CAIR has routinely exaggerated or fabricated "hate crimes" against Muslims. CAIR criticizes "stereotyping" of Muslims but its definitions of stereotyping includes all articles that expose or detail Islamic extremism, discuss terrorism and cite other issues deemed "offensive" to CAIR. Thus, in the past four years, CAIR officials have been attacked as "anti-Muslim" by *The New Republic*, *U.S. News and World Report*, *The Atlantic Monthly* (it had an article about the militant Islamic rule and oppression in the Sudan), the *Dallas Morning News* (it exposed the Hamas infrastructure in Texas), the *Reader's Digest* (it published an article exposing the repression of Christians by Communist regime and Islamic extremists), the *Tampa Tribune* (it exposed the Islamic Jihad infrastructure in Tampa), the *Weekly Reader's Current Events* (its transgression was a story about international terrorism), *The Journal of American Medical Association* (its transgression was an article about the victims of terrorism), the travel writer Paul Theroux (he attacked the fatwa on Salman Rushdie), Vice President Albert Gore (he used the word Jihad), the Wiesenthal Center (it showcased Ayatollah Khoumeni's call for the death of Jews), Father Richard John Neuhaus (he favorably reviewed a book that documented militant Islamic repression of Christians and Jews), and New York Times columnist Abe Rosenthal (he praised the documentary "Jihad in America.")

To substantiate its claims about "hate crimes," CAIR publishes annual reports on alleged hate crimes and discrimination against Muslims. Upon closer scrutiny, a large proportion of the complaints have been found to be fabricated, manufactured, distorted or outside standard definitions of hate crimes. The most egregious example of this is the fact that CAIR classified the arrest of Hamas leader Musa Abu Marzouk and the conviction of World Trade Center bombing conspiracy ringleader Sheik Omar Abdul-Rahman in its annual survey of "hate and bias crimes" against Muslims.

CAIR's 1997 report on "hate crimes" goes even further, labelling the death of Ahmed Abdel Hameed Hamida as a "hate crime." Hamida drove his car into a crowd of Israelis at a Jerusalem bus stop on February 26, 1996, the day after one suicide bombing and six days before another. Hamida killed one woman and injured twenty-three other Israelis. He attempted to escape on foot but was shot to death by Israeli civilians. He shouted "Allahu Akbar," (God is Great!) as his car struck the crowd. There was literature from the Islamic Jihad extremist group in the car, and subsequent Israeli investigation determined that he had previously made a statement affirming his intent to kill Jews. Hamida was a terrorist; CAIR classified his death as a "hate crime."

CAIR's head, Nihad Awad has expressed his tacit support for Hamas' military operations, including suicide bombings. In an interview on 60 Minutes (November 13, 1994), he was asked whether he supported the "military undertakings of Hamas." Awad responded, "Well, I think that's—that's for people to judge there." Wallace persisted, "I'm asking you." Awad finally responded, "The—the United Nations Charter grants people who are under occupation to defend themselves against illegal occupation."

At a symposium at Barry University (Florida) on March 22, 1994, Awad stated, "I am in support of the Hamas movement." (Video, Conference at Barry University)

CAIR's founders have close institutional ties to Islamic extremist groups. Nihad Awad, CAIR's executive director, was formerly editor of the *Muslim World Monitor*, the English language newspaper of the Islamic Association of Palestine (IAP), an organization identified by law enforcement officials as a Hamas front. He was listed in the December 1995 edition of the *Arab American University Graduate (AAUG) News* as representing IAP at the AAUG's 1995 annual conference, a year after he joined CAIR.

Rafeeq Jabar, a founding director of CAIR, is the president of Islamic Association of Palestine in Chicago. Mohammed Nimer, director of CAIR's research center, was a director of the United Association for Studies and Research (UASR) in 1992.

UASR has been described as a component of Hamas. A terrorist operative, arrested and convicted by Israeli authorities, called UASR "the political command of Hamas in the United States." (New York Times, "Israel Says That a Prisoner's Tale Links Arabs in U.S. to Terrorism," February 17, 1993). Musa Abu Marzouk, the head of Hamas' political bureau who was deported from the U.S. in 1997, was the president of UASR from 1987 through 1992.

The Islamic Association for Palestine (IAP) where Awad served, has close ties to Hamas. IAP has distributed Hamas communiqués calling for the killing of Jews, produced training videos for Hamas operatives and recruited for Hamas in the United States. Oliver Revell, former Associate Deputy Director of the FBI, has publicly called the IAP a "Hamas front."

CAIR attacked the 1995 Executive Order Freezing Assets of Groups Linked to Terrorism as directed specifically at Muslim groups: "We've been fearing something like this for a long time," said Ibrahim Hooper, "because there have been some elements in the pro-Israeli lobby accusing Muslim groups of raising money for these kinds of purposes with no evidence whatsoever of diversion of funds." ("Clinton Freezes Assets of Mideast Groups Linked to Terrorism," Washington Post, January 25, 1995).

In the October 1997 issue of *First Things*, the journal's editor, Father Richard John Neuhaus, favorably reviewed *The Decline of Eastern Christianity Under Islam: From Jihad to Dhimmitude* by Bat Ye'or. The book chronicled the formal second class citizenship and discrimination against Christians and Jews living under Islamic rule during the past 1000 years. Father Richard John Neuhaus also expressed his concern about the rise of militant Islamic fundamentalism, CATIR issued a press release calling upon the Catholic Church to investigate Fr. Neuhaus because he "portrayed Islam as a permanent threat to Western society, used racial and ethnic slurs against Arabs, offered inaccurate and offensive information about the spread of Islam * * * and suggested that Christian-Muslim dialogue might be a 'delusion.'" (CAIR Press Release, October 16, 1997).

After the CAIR press release, Father Neuhaus received a flood of hostile communications which used terms like "venomous diatribe," "hateful xenophobia," "agitating for a new Crusade," and "obviously mentally ill." Father Neuhaus commented that "the attack initiated by CAIR produced dozens and dozens of letters * * * some of them accompanied by hundreds of signatures of Muslims who claimed to be deeply offended by the review. * * * The campaign obviously had the aim of intimidating into silence anyone who dares to say anything less than complimentary about things Muslim" (Fr. Richard John Neuhaus, "Islamic Encounters," *First Things*, February 1998).

On August 23, 1996 and December 27, 1997, Washington Post columnist Nat Hentoff, a consistent and determined spokesman for human rights, published columns criticizing Louis Farrakhan and Jesse Jackson, among others, for failing to speak out against the enslavement of black Christians and animists in the Sudan and Mauritania. CAIR's Ibrahim Hooper responded that Jackson and others were silent "out of reluctance to indulge in politically and religiously motivated sensationalism that plays on and amplifies existing Islamophobic tendencies in Western society" and accuses Hentoff of "unacknowledged political or religious agendas, anti-Muslim stereotyping or cultural bias" (Letter to the editor, Washington Post, January 17, 1998).

CAIR has sponsored visits of radical Islamic leaders who have issued racist remarks. At a May 18, 1997 CAIR fundraiser at Buena Park, California, CAIR featured former West German ambassador to Algeria and Morocco (who had converted to Islam). According to a tape of his comments, Hoffman stated:

"[C]entury old prejudices against Islam * * * are still being reinforced almost daily through certain media. * * * During all this time of defamation of Islam, as a religion, our Prophet Muhammad in particular (pbuh) [peace be upon him, the common Muslim honorific for Muhammad] has been defamed like no other world personality before him or after him, far worse than people like Stalin or Hitler. And when Salman Rushdie published his blasphemies against Muhammad, he simply continued this tradition. And the Western legal system continue [sic] to treat Muhammad as an outlaw."

Hoffman went on to blame Zionism:

"Today, the defamation of Islam and Muslims serves * * * a political purpose, because Israel, and the Zionist lobbies, and media around the world believe that Israel will fare better, the worse Islam fares. And as long as this is so, and so long as the most powerful country in the world seems to act like a dog wagged by its tail, that is Tel Aviv, our public relations efforts will remain an uphill battle."

CAIR's public statements support the goals of Islamic terrorist groups by characterizing terrorist acts against Israel as legitimate self-defense or acts of desperation

and despair. As such, these statements serve as the psychological warfare component of the terrorist campaign. CAIR disseminates disinformation by denying the ideological basis of terrorist actions, and the reality of Islamic extremism.

CAIR denies that Islam includes a concept of holy war and that Islamic extremists advocate violence. CAIR has claimed publicly that: "'Jihad' does not mean 'holy war' * * * It is a central and broad concept that includes struggle against evil inclination within oneself. * * * There is no such thing as 'holy war' in Islam." (CAIR Publication).

CAIR's Board of Advisors and Directors and featured speakers include known militants and anti-Semites. Imam Siraj Wahaj, a member of CAIR's board of advisors, was listed by U.S. Attorney Mary Jo White as an "unindicted person who may be alleged as [a] conspirator" in the World Trade Center bombing conspiracy. Hamza Yousef, who serves on CAIR's Board of Advisors, spoke at an Islamic convention in 1995: "the Jews would have us believe that God has this bias to this little small tribe in the Middle of the Sinai desert and all the rest of humanity is just rubbish. I mean that this is the basic doctrine of the Jewish religion and that's why it is a most racist religion." (Speech of Hamza Yusuf, Islamic Society of North America, 1995).

Yusuf Islam, who was the featured main speaker at a CAIR fundraiser in Virginia on November 11, 1996. Islam has previously expressed his views about Jews in a pamphlet published by the Islamic Association for Palestine: "The Jews seem neither to respect God nor his Creation. Their own holy books contain the curse of God brought upon them by their prophets on account of their disobedience to Him and mischief in the earth. We have seen the disrespect for religion displayed by those who consider themselves to be 'God's Chosen People.'" (Yusuf Islam, Eyewitness, Islamic Association for Palestine, 1988).

Senator KYL. Thank you very much, and, again, I thank all three of you for being cognizant of our time constraints here.

Let me begin, Mr. Emerson, with a question that I asked Mr. Watson of the FBI after recounting to him the summary by the CIA just yesterday of the two fatwas that have been publicly disclosed now. What is your opinion, based upon your extensive research, on how concerned Americans ought to be about this?

Mr. EMERSON. The fatwa issued by Usama Bin Ladin and other militant leaders was actually not the first one. The first fatwa was issued last year, and it followed the twin bombings in Saudi Arabia that killed a total of 24 Americans in 1995 and 1996.

I believe this is very serious. It also shows the global village phenomenon. No longer are Americans protected here. The ability of Usama Bin Ladin to interfere, inject his hand in the United States today, is very apparent. In fact, it is believed by law enforcement that Usama Bin Ladin has a network in the United States in several cities and would be very easily able to carry out strikes here if he so desired. And, unfortunately, if we look at the graph of violence, starting from 1981 through the present, we see the migration of violence going from the Middle East into the West, particularly into the heart of the United States.

Senator KYL. I might note that our chairman, Senator Hatch, has been instrumental in discussing further Bin Ladin and his activities here.

Let me just ask you a second question relating to the South Florida University matter. You indicated that one of the principal persons of interest in that investigation—well, I am not sure you mentioned his name, but it is in your statement, Professor Sami Al-Arian. According to the affidavit in support of the search warrant for the on-campus office and personal residence, he teaches computer science at South Florida and is considered a computer specialist. And news articles indicate that he earned his doctorate in engineering from North Carolina State and won honors for his computer work there.

Considering his computer expertise, I am curious whether during the course of the search warrant executed on his office and residence, whether encrypted computer files were found; and if so, to what extent law enforcement was able to decrypt these files, if you know.

Mr. EMERSON. There was a major problem in the encryption or the decryption of the files that were subpoenaed and retrieved by the FBI, and that showed one of the major problems faced by the FBI today in the whole rise of encryption programs. I understand that not only was FBI personnel unable to immediately unencrypt it, but it was unable to be solved through other agencies as well, until finally 8 months after it was finally worked on that the ability to see what was in the files was solved.

This is a major problem. I can also tell you, based on the documents with the Mousa Marzook extradition request, that it showed that the Hamas commanders specifically recruited those activists not only capable of carrying out violent attacks like killing, but those that has chemical and biological expertise and those that has computer expertise so that they could jam the computers and launch information warfare against their enemies.

Senator KYL. Thanks very much. We will get independent confirmation from the FBI as part of our written record, but I thought perhaps you would be familiar with that.

Senator Feinstein.

Senator FEINSTEIN. I notice on the pages where you discuss Mr. Marzook that he essentially came to this country to get a doctorate degree in Louisiana. What was that degree in? I am just curious.

Mr. EMERSON. I can't recall offhand. I think it was computer science, but I would have to get back to you for sure.

Senator FEINSTEIN. And then, of course, he went out and set up the Hamas network.

Mr. EMERSON. Well, he stayed here. He didn't get his degree immediately. He kept getting his student visa renewed. And while he was getting his student visa renewed, he set up the Hamas empire in the United States, together with other students.

In fact, the whole origin of the radical Islamic network in the United States originates from graduate students who came to the United States and stayed. In fact, there is a large network called the Muslim Student Association, which I wouldn't say is totally radical, but there are many people who are in that group, as well as in the Muslim Arab Youth Association, which uses the word "youth," that are well into their 60's and 50's. It is a radical group that promotes a radical agenda, and it shows that the use of student visas is a major vehicle in the United States for militants to come and stay here. And once they stay here, you know how very difficult it is to get them out.

Senator FEINSTEIN. Do you have any other information that you might be able to provide the committee on how terrorists come to this country, how they avoid our immigration authorities, and what devices they use?

Mr. EMERSON. I would be happy to provide the committee with some of the investigative findings that I have acquired in the last several years about some of the means by which terrorists are able to evade detection at the Canadian border, especially in the Vancouver area, how they are able to come up through Mexico, how they are able to buy credentials overseas, how they are also able to manipulate American embassies in certain parts of the Arab world into giving them visas, in part because of the lack of sophisticated systems to check all names.

There are various means by which this country has become thoroughly porous to anybody who really wants to get into it. The most recent case occurred just in the last month and a half or so when there were a series of radical Islamic conferences held in the United States, held in Chicago, in Detroit, California, at which leading Islamic militants from outside the United States exhorted their followers to kill, openly kill Jews, to condemn the United States, attack the United States, and these were militants that ought not to have gotten into the United States. How they did, I can't explain it.

Senator FEINSTEIN. Thank you very much, Mr. Emerson.

Mr. Ashmawy, I was reading your comments and listening to you as well, and I just want to say I am really very glad that there are people like yourself, many people like yourself.

One of my deep concerns is that I see in this country a kind of rising bigotry toward Muslims, and I think that is tragic. And I am just very, very pleased that you were able to set the record straight, that Islam does not preach this kind of hatred and this kind of fanatical terrorism.

Unfortunately, you know, in a way, the actions of the few sort of condition the many, and your being here, I think, this morning and setting the record straight is a very important and significant contribution. I for one really want to use your statement to send it out to many of my constituents who write to me and make some challenging statements. So I am very grateful that you are here this morning.

Thank you.

Mr. ASHMAWY. Thank you for giving me the opportunity to speak.

Senator FEINSTEIN. Thanks, Mr. Chairman.

Senator KYL. Thank you. And, again, I want to commend all of our panelists here and everyone in the audience for being so cooperative and being concerned about our time constraints. We are now right at the moment where we have to conclude the hearing.

For the record, I would like to submit four other pieces of testimony and two reports. Without objection, they will be submitted.

[The prepared statements and reports are located in the appendix.]

Senator KYL. Without objection, we will leave the hearing record open for ten days for submission of our questions or any statements the witnesses might want to make.

Again, I thank you very much for your presence here today.

This hearing is now concluded.

[Whereupon, at 12:46 p.m., the subcommittee was adjourned.]

APPENDIX

QUESTIONS AND ANSWERS

RESPONSE OF GIL CHILDERS AND HENRY DEPIPPA TO A QUESTION FROM SENATOR KYL

STATE SPONSORSHIP

Question 1. Could you describe for the subcommittee any existing evidence pertaining to links between the conspirators and countries designated as state sponsors of terrorism, and the extent that this evidence reveals, or does not reveal, further evidence of state sponsorship or state acquiescence to the perpetrators' intentions to bomb the World Trade Center complex.

Answer. As we stated during our oral testimony, as prosecutors, our purpose was to present the evidence that had been assessed during investigation of the World Trade Center bombing relating to the defendants at trial and their co-conspirators. No foreign government or agent or official of a foreign government was named as a defendant or identified as a co-conspirator of the defendants on trial. Accordingly, there was no proof admitted into evidence concerning any connection between a foreign government (or official or agent thereof) and the World Trade Center bombing.

QUESTIONS OF SENATOR KYL TO PATRICK COLGAN

THE CONSPIRACIES

Question 1. Please provide a succinct chronology of the conspiracies for which Sheik Rahman and his co-defendants were prosecuted and convicted.

THE PROSECUTION

Question 2. Please list the defendants in the Sheik Rahman trial. Accompanying this list, please provide, per defendant: nationality, immigration status at the time of arrest, and a basic description of prosecuted activity.

UNITED STATES CONNECTION

Question 3. How did each defendant come into contact with the other defendants once in the United States?

SUPPORT INFRASTRUCTURE

Question 4. What type of support infrastructure was in place to facilitate the operations of Sheik Rahman and his co-conspirators? I am specifically referring to the means employed by the co-conspirators to facilitate their conspiracies, such as housing, immigration, financial support, and other forms of criminal activity.

TERRORIST GROUP AFFILIATIONS

Question 5. Based upon your extensive investigation into Sheik Rahman and his co-conspirators, were any of the individuals prosecuted Sheik Rahman trial members or affiliates of foreign terrorist organizations? If yes, would you please inform the subcommittee of the names of foreign terrorist organizations, the names of the defendants affiliated with these organizations, and the nature of the affiliation or involvement of these organizations with these individuals.

SUDANESE MISSION

Question 6. Please describe the nature and extent of the Sudanese mission participation in the Sheik Rahman conspiracies.

Answer. No responses were received from Mr. Colgan.

QUESTIONS OF SENATOR KYL TO DALE WATSON OF THE FBI

INFORMANT EMAD SALEM

Question 1. In November 1991, Emad Salem, a 40-year old Egyptian, is introduced by a FBI foreign counterintelligence agent to two FBI counterterrorism agents who are investigating the ongoing activities of Sheik Rahman. During his recruitment, Salem is told that any information he gathers about the Sheik's activities will be for intelligence purposes only, and that he will never have to testify or make tape recordings of conversations. Salem agrees to these terms.

At this time, the state trial of El Sayyid Nosair begins. Nosair is being prosecuted for the November 1990 murder of Rabbi Meir Kahane in Manhattan. Within the *jihād* community dominated by Sheik Rahman, Nosair is a *cause celebre*, and his trial becomes an opportunity for law enforcement to gather information on the Sheik. Salem begins attending the trial, where he soon meets Nosair's cousin and aide to Sheik Rahman, Ibrahim El-Gabrowni. Salem quickly meets other associates of El-Gabrowni and Sheik Rahman, and within a month is on a trip to Detroit with the Sheik and several others. During the ride to Detroit, the Sheik asks Salem to participate in the assassination of President Mubarak, a conspiracy later aborted.

By the end of 1991, a frequent topic of discussion between El-Gabrowni and Salem is firearms and explosives. These discussions continue through early 1992 and include visits with the convicted Nosair, where Salem is recruited to help construct a series of bombs to kill perceived enemies of Nosair and *jihād*. Also in early 1992, the FBI polygraphs Salem on his connection to Egyptian intelligence. This upsets Salem, who had previously provided this information to his immediate supervisors.

In June 1992, El-Gabrowni and his cohorts discuss obtaining a "safehouse" for the construction of twelve bombs for at least two assassinations and "other targets". Salem is asked whether he can construct detonators, to which Salem responds he can not. By mid-June, Salem is given a loaded handgun with extra bullets by another coconspirator. In early July, Salem is told that Nosair wants to see him again. The FBI is now seriously considering conducting electronic surveillance.

At this same time, a new supervisory FBI agent in New York decides that the investigation is serious enough to be treated as a criminal case requiring corroborating evidence. Salem is asked to make tape recordings for the FBI. Salem says no, that the FBI has broken their promise to him, and that making recordings would put him in severe jeopardy of his life. The FBI also asks Salem to submit to a second polygraph. Salem does so, but the relationship is then mutually terminated at the conclusion of the polygraph.

In September 1992, in an attempt to discourage potential violence by the conspirators, the FBI issues subpoenas on about twenty conspirators. Also in September, Salem agrees to submit to a third polygraph.

Only one other piece of information is gathered from Salem until subsequent to the World Trade Center bombing on February 23, 1993: in mid-December 1992, Mohammed Abouhalima leaves a message on Salem's answering machine asking Salem to call him. Salem does not return the call, but does inform the FBI of the call. It is later determined that on this same day Abouhalima bought smokeless powder which is found in the conspirators' storage shed in Jersey City.

After the bombing in February 1993, Salem provides information to the FBI on the whereabouts of Abouhalima, who had fled to Egypt. This information helps the FBI bring back Abouhalima to the United States to stand trial for his participation in the World Trade Center bombing. Salem then becomes the key informant for the FBI in stopping the conspiracy to bomb multiple New York City infrastructures in June 1993.

The subcommittee understands that the FBI conducted disciplinary inquiry into some agents involved with Emad Salem, and that action have been taken internally at the FBI in order to avert similar issues with informants from arising in the future.

The open record from the Sheik Rahman trial indicates that the FBI conducted neither physical nor electronic surveillance on those people identified by Salem as planning bombings and constructing bombs subsequent to the termination of Emad Salem as a FBI informant. Please detail what actions the FBI did take between

mid-July 1992 and the date of the World Trade Center bombing on February 26, 1993 to continue gathering information on these conspirators.

FOREIGN TERRORISTS IN AMERICA

Question 2. Per my letter of invitation, please explain the presence, modalities, supporting infrastructures, objectives, fundraising and recruitment activities of foreign terrorists and their affiliates in the United States, including a discussion of known or suspected criminal activities. In your discussion, please specifically discuss the following information: the physical locations and nature of foreign terrorist operations in the United States; the criminal enterprises and front organizations used to raise money; and whether American citizens are targets for recruitment by foreign terrorist organizations.

TRENDS

Question 3. What do you see as the trends in foreign terrorist activities in the United States in the future and how are your individual agencies addressing these trends?

IRAQI SITUATION

Question 4. During the course of the subcommittee hearing on February 24, Senator Kyl entered into the record copies of two religious edicts or *fatwas* and read into the record the CIA Counterterrorist Center's analysis of the *fatwas*. Mr. Watson was then asked to comment upon them. In response, Mr. Watson replied that he was not surprised such *fatwas* would be issued; that Americans should be concerned about these types of *fatwas* and that "we do see, working with our counterparts at the agency, increased threats toward American targets, not only military but soft targets around the world, U.S. businesses, businessmen, -women, tourists, and targets of that nature"; that *fatwas* appear to be a trend; and that the FBI was conducting an ongoing investigation into Bin Ladin.

Could you please expand upon these comments. More specifically, please:

1. Provide your analysis of these *fatwas*.
2. State why you are not surprised these *fatwas* were issued.
3. Explain why Americans should be concerned about these *FATWAS*.
4. Explain why these *fatwas* appear to be a trend.
5. Provide an explanation of the FBI investigations into Bin Ladin, including the nature and location of Bin Ladin's activities in the United States and abroad.
6. Provide a copy of "A Declaration of War" released against the United States by Bin Ladin on or about August 23, 1996. Was this Bin Ladin's first *fatwa* against the United States?

WEAPONS OF MASS DESTRUCTION TERRORISM

Question 5. Facts made public during the Ramzi Yousef cases indicate that this World Trade Center 'mastermind' was interested in terrorism involving weapons of mass destruction. I am concerned with what we might learn from the Ramzi Yousef cases about the potential for such attacks in the future. Shortly after the bombing of the World Trade Center in 1993, FBI agents discovered in the storage locker of one of Ramzi Yousef's co-conspirators *all the ingredients necessary for making the poison gas hydrogen cyanide*. This fact is well known. Less well known is that Yousef told Secret Service and FBI personnel who were accompanying him back to the United States after his capture that he had indeed *originally hoped to explode a chemical weapon in the World Trade Center*; the only thing that apparently stopped him was lack of funds to finance the operation.

Moreover, the indictment against Yousef indicates that two years *after* the World Trade Center bombing—while Yousef was a fugitive from American justice and planning to blow-up U.S. air carriers operating out of the Philippines—Yousef was reportedly *mixing chemicals in his Manila apartment*. He also had papers in his possession claiming the "ability to make and use chemicals and poisonous gas * * * against vital institutions and residential populations and the sources of drinking water."

These facts—pulled together only after intensive investigation involving two criminal cases and spanning several continents—seem to indicate a serious intent and evolving capacity by Yousef to engage in WMD terrorism.

Was there *any other evidence* recovered during your investigation to suggest that Yousef was attempting to carry out a chemical attack against the United States?

Based on all the evidence you collected in New Jersey, Manila and elsewhere, and based on Yousef's own statements, do you believe he had the intention and had gathered the technical expertise and equipment to engage in WMD terrorism?

CIA Director Tenet recently testified before the Senate Select Committee on Intelligence that we have seen "growing indications" of terrorist interest in WMD. Director Freeh testified that during 1997 the FBI opened over 100 WMD-related criminal cases—a three-fold increase over 1996. Could you describe to the Subcommittee these "growing indications"? Does this information—along with our experience with Yousef and subway gas attack in Tokyo—demonstrate that there is a growing risk that terrorists will actually use chemical or biological weapons as a means of terrorist attack?

COUNTERTERRORISM STRATEGY AND PROSECUTION OF TERRORISTS: THE PALESTINIAN AUTHORITY

Question 6. The United States has a solid record in tracking down terrorists and holding them to answer under U.S. law. This includes, most recently, the successful capture and prosecution of Mir Aimal Kansi, who was responsible for killing two Americans outside the entrance to the CIA. Director Freeh has called this record a central part of our counter-terrorism strategy and a key deterrent against terrorist acts.

But there is one area where, inexplicably, we seemed to have walked away from this prudent and effective course. Nine Palestinians, wanted in connection with terrorist attacks in which nine Americans were killed, are presently at large in the West Bank. Under the terms of the Oslo Accords, the Palestinian Authority is responsible for extradicting persons wanted in connection with extraterritorial criminal investigations. I am informed that Arafat has refused extradition requests from the Israeli government for persons wanted in Israel. I further understand that the U.S. government has not requested extradition of these suspects.

I appreciate that the FBI is not responsible for the foreign policy considerations at play here. But I wonder if you could share with us your view of the importance of ensuring that terrorists do not have a ready safehaven, outside the reach of U.S. law.

TERRORIST ASSETS

Question 7. In your testimony, you stated that the 1996 Antiterrorism Act was helpful to the FBI because the designation of foreign terrorist organizations gives the FBI the ability to seize terrorist assets. What terrorist assets have been seized under the Antiterrorism Act? Has the FBI estimated the amount of terrorist assets in the United States and those under the control of U.S. corporations and banks? If so, what is this amount? How are you coordinating this effort with the Department of Treasury's Office of Foreign Asset Control?

LEGAL DEFENSE FUNDS FOR TERRORISTS

Question 8. In your testimony, you noted that "supporters [of Sheik Rahman] used the internet to solicit funds for his defense" as an example of terrorist activity in the United States.

MOUSA MARZOUK

Question 9. Why was Hamas chieftain Mousa Marzouk not prosecuted in the United States for providing "material support" to terrorist groups? Can you supply to the Subcommittee copies of all documents found on the person of Mousa Marzouk and his wife? Was there any quid pro quo with Marzouk or any other person or group connected to him or acting on his behalf in exchange for his deportation to Jordan? Did the United States agree to drop possible criminal prosecution of Marzouk in exchange for any agreement by Marzouk? Why did the United States agree to accept a plea of no contest to the terrorist immigration charge? Did the FBI develop separate information about the possible involvement of Mousa Marzouk in violating U.S. laws?

WHITE HOUSE BACKGROUND CHECKS

Question 10. What procedures are in place which enable or require the FBI to conduct a background check on persons who seek to visit with White House personnel, including the President and First Lady, but may have ties to terrorist groups or terrorist front groups? Has the FBI ever conducted a background check on persons suspected of having ties to a terrorist group or a terrorist front group?

THREATS AGAINST AMERICANS

Question 11. Is the FBI aware of threats against American citizens or exhortations to commit violence against American citizens issued by militant fundamentalist organizations based or headquartered in the United States? If so, how many Americans have been subjected to these threats? What is the exact nature of these threats?

FOREIGN STUDENT TRACKING PROGRAM

Question 12. In 1995, an INS task force on foreign student controls submitted a report to the then Deputy Attorney General, Jamie Gorelick, per the concern expressed to her by Director Freeh about security risks posed by foreign students. According to the report, the "guiding principle to the Task Force's effort" was that "the American public needs to have some basic level of comfort in the knowledge that its government is guarding against the danger * * * [of] instances where terrorists and criminal aliens have been linked to student visas." In 1996, Congress responded to this INS report by passing a mandatory law requiring that a Foreign Student Tracking Program be established by January 1, 1998 and a report on the program be submitted to this Committee in four years. What is your assessment of the value of the national development of this program to the FBI's overall counterterrorism effort?

Answers. No response to any question was received from Mr. Watson.

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, May 13, 1998.

Hon. JOHN KYL,

*Chairman, Subcommittee on Technology, Terrorism, and Government Information,
Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR SENATOR KYL: Thank you for your letter of March 18, 1998 enclosing additional questions arising from my testimony before your Subcommittee on February 24th. Please accept my regrets for the delay in response. The questions and answers follow.

RESPONSES OF WALTER D. CADMAN TO QUESTIONS FROM SENATOR KYL

Question (Priority of conducting counterterrorism). Does INS view its role in combating terrorism as a priority responsibility internally, or more of an ancillary tasking?

Answer. Before last fiscal year, INS did not enumerate counterterrorism efforts among its Fiscal Year priorities. However, in both Fiscal Year 1997 and Fiscal Year 1998, counterterrorism has been a subset contained within the larger category entitled, "Interior Enforcement." Thus, while it does not yet stand on its own as a discrete priority, it has garnered recognition within INS as an important program meriting additional attention and better tracking and monitoring systems.

Question (INS Counterterrorism Unit). With the INS acting as the gatekeepers to this country, Congress recognized in the Anti-Terrorism Act that the INS plays a critical role in identifying, excluding, and removing terrorists from the United States. And yet, as I understand it, Mr. Cadman, your position as counterterrorism coordinator at INS was only just created at the end of last summer; and you apparently do not have a counterterrorism unit consisting of intelligence and operations personnel that reports to you. What additional resources do you need and programs do you believe need to be in place in order that the Counterterrorism Unit at INS can be a truly effective player in U.S. counterterrorism efforts?

Answer. You have accurately depicted the late start INS has had in developing its Counterterrorism Unit (recently renamed the National Security Unit, or HQNSU). Since then, there have been a number of heartening developments—

(1) *Staff Resources.* I have had detailed to me from the Office of Programs, a senior special agent and a program analyst. In addition, I have been permitted to select two senior agents to join my staff, both of whom will enter on duty in the very near future.

(2) *More Streamlined Reporting Channels.* In an effort to consolidate oversight responsibility within INS Headquarters for matters involving counterterrorism, I have been given supervisory oversight for the three INS special agents who are assigned fulltime to the International Terrorism Operations Section (ITOS) at the FBI.

(3) *Additional Field Resources.* Our Fiscal Year 2000 budget request includes 53 additional special agents to be assigned to Joint Terrorism Task Forces throughout

the nation. This request has been supported within INS and the Department of Justice.

There are, however, three other areas in which the progress and development of our unit has not been as rapid as could be desired:

(1) *Responsibility for Terrorist Lookouts.* Such lookouts continue to be handled as a part of the larger lookout system, handled by INS Inspections components. As a consequence, we find it difficult to coordinate—or, on occasion, to even become aware of—"hits" that occur at ports of entry when suspected terrorists arrive from foreign location.

(2) *Additional Streamlining.* Although as mentioned, oversight of the INS agents assigned to the FBI's ITOS now rests with the NSU, this has not happened with the INS agents assigned to the CIA's Counterterrorism Center (CTC).

The result in each case mentioned immediately above is a fragmentation and stovepiping within the INS structure that does not lend itself well to consolidation and comprehensive oversight of our developing counterterrorism program. I am confident, however, that these matters will be addressed in the near future.

Mr. Chairman, I hope that these responses are helpful to you in assessing the direction of our program. I would like to thank you, the other members of the Subcommittee, and your staff for the kindness and consideration you showed at the hearing and, more importantly, for your interest in, and attention to, the significance of INS efforts in the federal government's counterterrorism program.

Sincerely,

WALTER D. CADMAN,
Counterterrorism Coordinator.

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, August 20, 1998.

Hon. JON KYL,
Chairman, Subcommittee on Technology, Terrorism, and Government Information,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of March 18, enclosing additional questions arising from my testimony before your Subcommittee on February 24. Please accept my regrets for the delays in response. The questions and answers follow.

RESPONSES OF DORIS MEISSNER TO QUESTIONS FROM SENATOR KYL

Question (Priority of conducting counterterrorism). Does INS view its role in combating terrorism as a priority responsibility internally, or more of an ancillary tasking?

Answer. In both Fiscal Year 1997 and Fiscal Year 1998, counterterrorism has been a key element of one of INS' seven agency-wide priorities. Thus, INS treats its anti-terrorism role and responsibilities as a program that receives ongoing executive attention and support through agency-wide tracking and monitoring systems and quarterly reporting and review.

Question (INS Counterterrorism Unit). With the INS acting as the gatekeepers to this country, Congress recognized in the Anti-Terrorism Act that the INS plays a critical role in identifying, excluding, and removing terrorists from the United States. And yet, as I understand it, Mr. Cadman, your position as counterterrorism coordinator at INS was only just created at the end of last summer, and you apparently do not have a counterterrorism unit consisting of intelligence and operations personnel that reports to you. What additional resources do you need and programs do you believe need to be in place in order that the Counterterrorism Unit at INS can be a truly effective player in U.S. counterterrorism efforts?

Answer. The INS has taken many positive steps towards developing an effective Counterterrorist Unit (recently renamed the National Security Unit, or HQNSU). The INS has taken significant steps in the following areas:

Staff Resources: A senior special agent and a program analyst have been assigned to the HQNSU. One additional senior agent has joined the staff and a third will be selected in the very near future.

More Streamlined Reporting Channels: Mr. Cadman has supervisory oversight of the three INS special agents who are assigned to the International Terrorism Operations Section at the FBI. This has strengthened the program by consolidating INS Headquarters oversight of counterterrorism matters.

The INS Fiscal Year 1999 budget request to Congress includes a total of 16 positions (15 agents) and \$3,112,000 to augment INS' participation in Joint Terrorism Task Forces (JTTF). These resources would provide INS representation in additional JTTF locations planned around the country, as well as to existing task force locations which require additional INS personnel due to their substantial alien-terrorist caseload. If the Congress were to provide these increased counterterrorism resources to INS in Fiscal Year 1999, it would enhance INS' role as an effective player in U.S. counterterrorism efforts. To date, the Senate has not included these resources in our appropriations bill. However, the House action would provide these resources. I know that there are areas in which progress and development are still needed, and I am confident that these will be worked out in the near future.

Mr. Chairman, I hope that these responses are helpful to you in assessing the direction of our program. I would like to thank you, the other members of the Subcommittees, and your staff for the interest in, and attention to, INS' efforts in the Federal Government's counterterrorism program.

Sincerely,

DORIS MEISSNER,
Comissioner.

RESPONSE OF OMAR ASHMAWY TO A QUESTION FROM SENATOR KYL

FAMILY DEATH THREAT

Question 1. You mentioned in your testimony that prior to the World Trade Center bombing, your father engaged in verbal debates with Sheik Rahman at the Sheik's mosque in Jersey City. Thereafter, his life, and his family's lives, were threatened. I understand that a death threat in the Muslim community can take a subtle form, as can its communication to the person threatened. Could you please explain in more detail how this particular threat came about, how it was communicated to your family, and what actions your family took in response?

Answer. The manner in which a death threat is issued in a Muslim community differs from the general western concept of a death threat. The difference is particularly evident when the threat is made against another member of the Muslim community. In this case, the progression of events that make up a death threat is considerably more subtle.

The religious leader who gives the "sermon" at the community mosque will, in one such "sermon" declare the person who they wished killed a *kafr*. *Kafr*, by definition, is a person who has renounced Islam. Furthermore, the *kafr* has technically renounced all monotheistic religions as well—effectively renouncing God. This declaration has a very particular meaning. Despite it being contrary to the spirit of Islam, an extremely minute segment of the community recognizes a tradition that teaches to kill such people is not an evil. The western understanding would be that to kill someone who is *kafr* would not be considered a sin. This declaration is taken by the leader's followers to be a sign that it is permissible, if not desirable, to kill the one declared *kafr*. Depending on the scenario, this could be considered an order to kill. Those who would heed such a declaration are part of the minute fraction of the Muslim community who are extreme in their beliefs. The vast majority of moderate Muslims would not even consider such an order.

In this case of my late father, the threat against his life occurred as described. One of the leaders at the mosque of Sheik Oman Abdel Rahman, in a sermon, declared my father a *kafr*. While I cannot recall how my father learned of the threat, I can assume with confidence that it was by word of mouth. My father, while concerned for his safety and that of his family, did not stop defending Islam and its teachings. My mother and I, believing as firmly as my father in the true teachings of our faith, continued to support my father's activities. The concern was real, but we each believed that what we were doing was worth the risk. Therefore, the day to day activities of our family did not really change significantly although we all felt a certain level of anxiety. It made the work my father was doing that much more difficult. It was no longer simply about doing what he thought was right. It now meant that he had to be willing to risk his life to fight for what he believed. He continued advocating the moderate Muslim voice and defending Islam because it needed to be done, even in the light of such risks.

QUESTIONS OF SENATOR HATCH TO THE FBI

Question 1. In recent years, there has been substantial improvement in communication and coordination between FBI and the rest of the Intelligence Community, notably on counterintelligence matters, but also on counterterrorism issues.

Do you believe the level of coordination is sufficiently combining resources between FBI and the rest of the Intelligence Community to match the current terrorist threat level?

Recognizing the improvement through recent years, do you believe there could be improvements in communication and coordination between FBI and the Intelligence Community? Would you have specific recommendations?

Question 2. In the report on the hearing on "Current and Projected National Security Threats to the United States" (hearing held on February 1997; report released late 1997), the CIA was asked, in a written question, "What, if any, influence or contacts does (Usama Bin Ladin) have in the United States?" CIA answered, "We are unaware of his (Bin Ladin) having any influence or business contacts in the United States."

Does the FBI agree with this assessment? Is the FBI aware of any non-business influence Osama Bin Ladin has in the United States?

Question 3. In very interesting testimony before the committee, Mr. Ben Jacobsen of the Peregrine Group of Miami described certain consumer coupon fraud schemes that had been perpetrated by groups raising illicit funds that could be used for terrorist purposes.

How carefully is FBI monitoring these fraud schemes? Is it aware of the extent of the networks and the major players?

Question 4. In the same testimony, Mr. Jacobsen spoke of the case of Adnand Bahour, of North Hollywood, Fla., who was involved in a coupon fraud—and who was a nephew of PLO leader George Habash.

Certain terrorists have been known to use family connections, as well as cells, to further their plans. How does FBI balance legal rights against the need to sometimes monitor family members of known terrorists? Does FBI make automatic assumptions about such individuals?

Question 5. How many agents in the International Terrorism Operations Section speak Arabic? How many read Arabic?

Question 6. Witnesses testifying before the subcommittee gave a broad conceptual recognition of the nature of the terrorist threat today.

Does the FBI have a sufficient analysis of the state of the threat to U.S. interests, including the magnitude of the anticipated threat from international terrorism to U.S. interests, persons and property at home?

Does the FBI have the names and background of major terrorist groups and the leadership of such groups; their sources of financial and logistical support; the nature and scope of their human and technical infrastructure abroad and in the U.S.; and their goals, doctrine and strategies? Does the FBI know the quality and type of their education and technological training?

Does the FBI know and track bases domestic recruitment by foreign terrorists in the U.S.?

Answers. No responses were received from the FBI.

ADDITIONAL SUBMISSIONS FOR THE RECORD

SENATE JUDICIARY SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION, SENATOR JON KYL, CHAIRMAN: MAJORITY STAFF REPORT ON "THE THWARTED BROOKLYN BOMB PLOT: IDENTIFYING, EXCLUDING, AND REMOVING TERRORISTS FROM THE UNITED STATES", FEBRUARY 24, 1998

EXECUTIVE SUMMARY

Excluding foreign terrorists from the United States must be a priority for U.S. counterterrorism policy and practice. In 1993, six Americans died in the World Trade Center bombing. Two CIA employees were slain that year outside of CIA headquarters. In 1995, a conspiracy to bomb the Holland and Lincoln Tunnels was in the works, and the New York FBI and United Nations buildings, but was thwarted. So was a bomb plot in Brooklyn, New York in 1997. Less well known is that numerous foreign terrorist organizations use the United States as a base to raise money, train recruits, solicit membership, educate students, and obtain weapons, increasing U.S. vulnerability to terrorist acts.

The purpose of this report is to identify the policies and practices the United States has in place to identify, exclude, and remove aliens with a terrorist history or affiliation who seek entry into the United States. Answers were sought from the Immigration and Naturalization Service (INS), the agency ultimately responsible for determining the admissibility of aliens into the United States, as well as the State, Justice, and Treasury Departments. The answers are disturbing.

The INS has no articulated counterterrorism policy. The INS needs to allocate sufficient resources to its newly created Counterterrorism Unit, responsible for both counterterrorism operations and intelligence. This unit needs to coordinate information received at U.S. points of entry, where the INS remains dependent on a terrorist database provided by the State Department and ad hoc information provided by field agents and inspectors. These databases are checked automatically at border gates. To date, State's database alone boasts 345 exclusions. Even so, identification and exclusion of foreign terrorists hangs by the tenuous thread of one dedicated database from an outside agency, without the built-in redundancy or supplemental intelligence supplied internally by INS to maximize the technology's effectiveness.

The INS also needs to exhibit real commitment to the Foreign Student Tracking Program, mandated by Congress in 1996. Our academic institutions remain at risk of being used as a base to educate, recruit, and raise money for foreign terrorists, and yet the INS remains incapable of acquiring real-time information on aliens entering the United States on student visas. The INS must develop and deploy a comprehensive national tracking system which will facilitate student entry and university compliance, while providing essential, timely information to the INS.

Removing aliens who seek to conduct their illicit activities here in the United States is another integral piece of the national strategy to counter terrorism. The Antiterrorism Act created the Alien Terrorist Removal Court to enable the Justice Department to seek deportation of those aliens upon whom only classified information exists to verify terrorist affiliation, but the Department has yet to refer a case to it. This failure, in combination with subsequent immigration law changes which permit similar procedures to be used during deportation procedures, has the unfortunate effect of calling into question this court's value.

PURPOSE

Chairman Jon Kyl is conducting oversight of the 1996 Antiterrorism and Effective Death Penalty Act (Antiterrorism Act) signed into law on April 24, 1996. A hearing is scheduled for February 24. The impetus for this particular report was the July 31, 1997 incident in Brooklyn, New York in which two aliens were arrested and subsequently indicted on federal charges for conspiring to bomb a subway station in New York. One of the two suspects, Gazi Ibrahim Abu Mezer had entered the

United States three times illegally prior to his arrest at the Canadian border, was released on a \$5,000 bond after the third entry, and eventually granted voluntary departure. The other suspect, Lafi Khalil, had been allowed to overstay his tourist visa. This incident highlights the importance of immigration policies and procedures in the overall U.S. counterterrorism strategy.

The Immigration and Naturalization Service (INS), housed at the Department of Justice (Justice), plays a central role in U.S. counterterrorism efforts. It is the responsibility of INS to determine who may enter, and who shall be excluded, from the United States.¹ The important question, then, is what capabilities and resources the INS has in place to identify, exclude, and remove terrorists. As Presidential Decision Directive 39 (PDD-39), issued in June 1995, reads: "The Secretary of State and the Attorney General * * * shall use all legal means available to exclude from the United States persons who pose a terrorist threat and deport or otherwise remove from the United States any such aliens".

The Antiterrorism Act complemented this directive by enacting into law numerous provisions designed to enhance the ability of the relevant departments and agencies to prevent terrorist acts and punish those responsible. Several sections of the law are dedicated to assisting law enforcement, namely Justice, in removing alien terrorists and modifying asylum and criminal alien procedures. Taken together, PDD-39 and the Antiterrorism Act recognized that the INS must be central to comprehensive U.S. counterterrorism policies and strategies. The purpose of this report is to explore the extent to which the INS, and those agencies which support its mission, have effectively developed policies and strategies that implement current law.

THE BROOKLYN BOMB PLOT

FACTS

The Brooklyn bomb plot was aimed at detonating four pipe bombs in the Atlantic Avenue subway station, which includes a Long Island Rail Road terminal, and a commuter bus in New York City. The two main suspects are Mezer and Khalil, two Jordanians in their early twenties with Palestinian sympathies.

The Arrests

On July 30, 1997, Mohammed Mossabbah, an Egyptian, approached two Long Island Railroad Police Department officers at the Atlantic Avenue Station in Brooklyn where he attempted to inform the officers that something bad was about to happen. The Railroad police officers, having difficulty understanding the informant, took Mossabbah to the New York Police Department (NYPD) where he was provided with a translator. The NYPD were told that Mezer and Khalil planned to blow up a bus or subway the next day.

At 5:00 am on July 31, the NYPD made a hard entry into the Mezer residence at 248 4th Avenue in Brooklyn. Khalil was shot and wounded after lunging for an officer's gun. After Khalil was shot, Mezer attempted to simultaneously detonate his four homemade pipe bombs, and managed to turn on one of the four switches necessary to activate the bombs before he was critically wounded by police.

During the course of interviews on July 31 and August 1, Mezer admitted to constructing the bombs, stating that he had intended them as suicide bombs and "it must not be my time yet." Mezer further stated that he was sympathetic with, but not a member of, Hamas. He is missing part of a finger that he alleges was shot off by an Israeli soldier. Khalil denied all knowledge of the plot or membership in a terrorist organization. Both suspects considered the Hamas attack in a Jerusalem market which killed 15, including two suicide bombers, to be a heroic deed.

What is thought to be a suicide note was found in Mezer's apartment. In addition, reams of political literature attacking Israel, and a portrait of Sheik Omar Abdul Rahman, the militant Egyptian cleric serving a life sentence after being convicted in a plot to bomb the United Nations, the New York F.B.I. building, the Holland and Lincoln tunnels, and other landmarks.

Also found in Mezer's apartment was a copy of a letter received by the State Department's Office of Diplomatic Security on August 1, the day of the arrests. The letter, written as a message in the name of God, promised suicide bombings against Americans and Jews anywhere in the world if the United States moves its embassy

¹ According to the 1996 Statistical Yearbook of the Immigration and Naturalization Service, 142 statutes provide the legislative history of immigration to the United States dating back to 1790. Not until 1891 did Congress pass a comprehensive law to nationally control immigration. This law also established the Bureau of Immigration under the Treasury Department for the purpose of administering all immigration laws, including the classes of persons to be excluded from entry and rules to facilitate land border inspections for "ordinary" travelers.

to Jerusalem or if American troops are not removed from Islamic land in the very near future. Also demanded was the release of Sheik Omar Abdul Rahman; Ramzi Ahmed Yousef, infamous for his role in the World Trade Center blast and plotting to blow up eleven airliners; and Sheik Ahmed Yassin, a Hamas leader jailed in Israel but released to Jordan on September 30, 1997. The letter concludes by taking responsibility for the downing of TWA Flight 800.

Mezer's entry into the United States

On January 14, 1997, Mezer was charged with entering the country without inspection. This was Mezer's third attempted entry along the northwest border from Canada. The first two entries resulted in voluntary exits at the prompting of U.S. border patrol. Mezer was held for four weeks on a \$15,000 bond at an INS detention center after the third attempted entry.

On January 27, six months prior to Mezer's arrest for the bomb plot, an immigration judge held deportation proceedings for Mezer in Seattle, Washington. During the course of that hearing, Mezer emphatically asserted that although his parents were Jordanians, he wanted the judge to consider him a Palestinian with Israeli travel documents. He wished to be deported to Canada, which he claimed previously granted him political asylum and where he had applied for residency. He further stated that he could never go back to his country, and if he couldn't go back to Canada, he would apply for asylum in the United States. Later in the hearing, the judge asked the INS attorney whether Mezer had a criminal record. The attorney related a Canadian conviction for assault and apprehension in the Cascades for alien smuggling. Mezer was ordered deported to Canada.

On January 29, the INS filed a motion to reopen Mezer's case because Canada refused to accept him back and no alternative country for deportation was designated. In a hearing on February 6, the judge asked Mezer if he would like to apply for asylum in the United States, to which Mezer said yes, and that he would have the application completed by February 12. Mezer also requested a reduction in his \$15,000 bond. On February 14, Mezer's bond was reduced to \$5,000 and he was released from INS custody and given an April court date. His application deadline was twice extended.

Not until an April 7, 1997 hearing did Mezer hand deliver his asylum application to the immigration judge, who scheduled an asylum hearing on the merits for January 20, 1998. During the course of the hearing, the judge advised Mezer and his attorney of the new law which bars any asylum applicant who deliberately fabricates an application from any benefits under the Immigration and Nationality Act. If the asylum application is withdrawn 30 days before the asylum hearing, voluntary departure may be granted for up to 120 days. Within 30 days, voluntary departure is limited to 60 days, and the applicant must post a \$500 voluntary departure bond. The judge and Mezer's attorney then discussed Canada's refusal to accept Mezer, and concluded that the reason Canada would not accept him back was because its grant of asylum required that if he left Canada, he would not be permitted to return.

Mezer applied for asylum on the grounds of an "imminent danger of death" if returned to Israel. The asylum application states that Mezer was born and raised in Hebron in a family of activists for a Palestinian homeland. Mezer was involved with a student union and demonstrations on the West Bank, and claimed this resulted in numerous arrests, short imprisonments, as well as being beaten, tortured, identified as a security risk, and, during one celebration, having part of his finger shot off by an Israeli soldier. He claims he was targeted for harassment by the Israelis, who repeatedly tried to coerce him into acting as an informant on Hamas. His application further states that he was accused more than once by the Israelis of being a member of Hamas. In his application, Mezer denies the association, but acknowledges he knew some members. He believed he would be killed by Palestinians if he acted as an informant, or eventually by the Israelis if he refused to cooperate. His family then sent him to Canada as a student, in the hope that he could start a new life.

A hearing set for June 23 was to consider the asylum application, but Mezer withdrew the application on June 12 and, according to his attorney, had decided to leave the United States. Mezer did not show. His attorney said she had received a phone call from Mezer who told her he was in Canada and asked if there was anything he could do to get his bond back. The judge responded he might be able to get the bond back if departure could be verified. The judge also decided that the "fair thing to do" if Mezer had not really left the country, was to grant Mezer sixty days (August 23) for voluntary departure. The judge further decided that if Mezer was still in the United States and failed to leave, a deportation order would be entered with alternative destinations of Canada or Jordan.

Rather than leaving the country, Mezer moved to Brooklyn. He and Khalil (who had overstayed his tourist visa) also spent a short time in Greenville, North Carolina in June, where photos were taken of the two with shoulder weapons. The two also purchased some of the component parts for the pipe bombs in North Carolina. On July 31, Mezer and Khalil were arrested for the bomb plot, after police were tipped to the suspects' plan.

On August 28, Mezer and Khalil were both indicted in the Eastern District of New York on federal charges for conspiring to use weapons of mass destruction,² as well as the illegal use of a firearm. Khalil was also charged for counterfeiting an alien registration receipt form. The Immigration and Naturalization Service (INS) charged Khalil with an INS visa overstay violation, as was another occupant in the apartment at the time of the arrests.³ Intelligence sources state that no information existed indicating a link between these individuals and a terrorist organization. Only upon the arrest of the alleged terrorists on July 31 did the agenda of the suspects become known.

AN IMPORTANT CASE STUDY

The Mezer case provides an interesting starting point for exploring how the government is organized to exclude and remove aliens with a terrorist history from the United States. A review of Mezer's entry into the United States reveals that there was no way for the government to know of Mezer's terroristic tendencies prior to his arrest.⁴ Law enforcement had no access to Mezer's asylum application, which was the only evidence of terrorist affiliation which existed prior to his arrest. Moreover, Mezer's request for asylum enabled him to stay and travel about freely in the United States (after a four-week stay in a crowded detention facility in the Northwest) while obtaining extensions on filing his asylum application and awaiting subsequent hearings.

Even once Mezer was granted voluntary departure,⁵ there was no way to verify his own statement that he had left the United States (a false statement), since the INS does not have a system in place which tracks the entry and exit of aliens. As to Khalil, the opportunity to deport him based solely on his visa overstay existed, but again the INS has no system in place to track aliens' entry and exit. Even after their arrest for the attempted bombing, intelligence gathered could not place either Mezer or Khalil as members or supporters of a foreign terrorist organization, making the Antiterrorism Act or any other means of exclusion useless against them.

In essence, then, the facts of the Brooklyn bomb plot reveal how an alien without an extensive criminal history or affiliation with terrorist activity can enter this country, make himself anonymous, and attempt a terrorist act. The alien may enter legally through a tourist visa, as Khalil did, or illegally by walking across the border, as Mezer did. This case also provides an introduction to the procedures in place, and their practical use, when an alien illegally crosses our border.

THE ROLE OF THE IMMIGRATION AND NATURALIZATION SERVICE IN IDENTIFYING, EXCLUDING, AND REMOVING TERRORISTS FROM THE UNITED STATES

IDENTIFYING TERRORISTS

Introduction

The INS is the United States' gatekeeper, ultimately responsible for defeating terrorist entry into the United States by deeming who may be admitted and who will be excluded. The State Department is responsible for screening applicants abroad and issuing visas to those who qualify. When a visa-holding alien reaches a U.S. port of entry, the visa permits the individual to apply for admission to the United

² Section 702(f) of the Antiterrorism Act gives the Attorney General primary investigative responsibility for all "federal crimes of terrorism." Section 702(g)(5) defines a federal crime of terrorism as an offense "calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and is a violation of * * * 18 U.S.C. 2332a relating to use of weapons of mass destruction." In this case, the prosecutors construed the four pipe bombs as "weapons of mass destruction."

³ In addition, State could have prepared criminal complaints for both suspects for filing false statements in a visa application in furtherance of a terrorist act. To date, these complaints have not been filed.

⁴ Mezer entered without inspection over the Canadian border's dense forest, so he was not subject to automatic review as he would have been at a port of entry. His asylum application did admit acquaintance with Hamas members, but asylum applications are not available for INS review, and most certainly would not be available to INS inspectors.

⁵ Voluntary departure is a directed departure from the United States voluntarily agreed to by an alien without an order of deportation.

States, where the INS determines if the alien is admissible. The U.S. Customs Service supports the INS in its mission, sharing INS' inspection role at points of entry. INS is also responsible for patrolling over 8,000 miles of U.S. border where no port of entry exists. This section describes in greater detail the inter-governmental policies and processes in place today to combat terrorist entry into the United States.⁶

The State Department is responsible for denying visas to aliens linked to terrorist activity. Its Bureau of Intelligence and Research provides sanitized intelligence and law enforcement information to consular offices worldwide through the "Tipoff" database, available through State's Consular Lookout and Support System. Tipoff permits consular office employees to screen visa applicants for terrorist connections while withholding the background information from the consular employee and the basis for denial from the applicant. Of significant note is that citizens of countries covered by the U.S. visa waiver program (which permits participating countries' citizens to seek admission to the United States without the traditional visa obtained from an overseas consular office run by State), are not subject to a Tipoff search through the normal procedures and policies requiring consular officials to make selective queries to their headquarters when confronted with suspicious visa applicants or nationals of specific countries. As a result, aliens covered by the visa waiver program are not searched via Tipoff until they reach U.S. soil, further exacerbating the burden on the INS when it comes to excluding terrorists.

At our borders and ports of entry, INS and Customs officials are cross-designated to work in tandem processing U.S. citizens and aliens into this country. Inspectors from each agency thus support the other's mission in stopping the entry of terrorists and materials that may accompany them into the United States. In other words, Customs agents are given the authority to check individuals while INS is given authority to check goods accompanying individuals.

The screening procedures available to these INS and Customs officials are critical to maximizing the ability to exclude aliens who attempt to enter illegally or who pose a threat to the public safety or national security of Americans. One of the most significant of these procedures is the automated name check, which submits an individual's name to the Treasury Enforcement Communications System II (TECS II), a database which maintains information on individuals suspected of illegal activities. TECS II, in turn, houses the Interagency Border Identification System (IBIS), which is used to facilitate a more confident processing of individuals seeking admission into the United States. It is through IBIS that Tipoff is made available to INS and Customs officials. IBIS is also shared with other agencies involved with entry into the United States, such as the Departments of State and Agriculture.

Although INS and Customs remain complementary to each other's mission at border stations, it is important to understand that their responsibilities diverge after the initial U.S. inspection.⁷ For example, in regard to a Tipoff hit (potential positive identification of a terrorist), agreement between State, INS and Customs requires that only INS, and not Customs, has the authority to take action against an individual who is reasonably suspected of terrorist activity. Customs, on the other hand, "is responsible for enforcing compliance on behalf of 60 different agencies with more than 660 U.S. laws that govern goods and persons entering and exiting the U.S.

⁶ A few of the steps taken by staff to obtain information about the inter-governmental identification process include: an onsite briefing by the Director of a major port of entry regarding procedures and tools used in the passenger screening process; an Interpol briefing regarding its role in using and disseminating intelligence; letters and follow-up questions to the Secretary of State and the Attorney General; Central Intelligence Agency and Counterterrorism Center briefings regarding their mission and role in identifying terrorists; INS Intelligence Bureau and Enforcement briefings regarding use and sharing of intelligence on terrorists; State Department briefing regarding the development and use of a database designed to identify terrorists at consular offices overseas and at the border.

⁷ INS and Customs mission statements are in the INS/Customs Unified Port Management-Joint Implementation Plan, provided to Congress in July 1997 pursuant to requirement in a 1996 Treasury, Postal Service and General Government Appropriation bill. The Plan requires that Customs' Commissioner to designate a single person to be Port Director at pilot sites, one on the north and one on the south border, to reduce competition in organization and management amongst Customs and INS officials. The mission statements read:

"USCS Inspection Mission: Regulate people, carriers, and goods that cross U.S. borders; assess and collect duties, taxes, and fees on imports; prevent and deter smuggling of goods and narcotics; and protect the American public against the entry of contraband and prohibited goods."

"INS Inspection Mission: Determine the admissibility of persons seeking entry in a timely and consistent manner; deny entry to inadmissible aliens; enforce criminal provisions against those who conspire to promote illegal entry and stay; and deter future illegal entry and stay in the United States."

* * * [where] officials look for contraband, such as illegal drugs, currency, and explosives, [and] whether or not the contraband is intended for terrorism.”⁸

According to a recent GAO study on U.S. counterterrorism efforts,⁹ there are 350 points of entry into the United States. The INS Congressional Liaison office puts the number at around 300, though it was unable to verify this. Nor could the INS break down this “rough” number into the number of air ports, sea ports, and land ports. The INS does know that land ports of entry cover about 2,000 shared miles with Mexico, but the number of shared miles with Canada is “unknown.” Furthermore, the INS does not know the total number of INS and Customs inspectors and agents assigned to all points of entry as of July 1997, let alone the respective numbers assigned to air, sea and land ports.

Ports of entry are defined as a place where an alien is permitted to enter a country. Technically, there is no presumption of citizenship at a port of entry, therefore requiring the entrant to be presented for inspection and proper documentation. This is the case at land, air, or sea ports of entry. In practice, however, the large volume of traffic at land ports of entry (otherwise known as border crossings) has resulted in different policies, where inspection is required only of vehicles, and inspection of persons is left to the discretion of individual INS or Customs officials.

The critical security role of the INS at U.S. borders

As gatekeepers to the nearly 24 million aliens who seek admission to the United States every year, the INS plays a critical role in combating terrorism. This role is formally recognized in Presidential Decision Directive 39, which states that the INS is responsible for excluding those persons who “pose a terrorist threat.” Unfortunately, the senior INS leadership has yet to recognize its role as crucial in overall counterterrorism efforts, focussing instead on the very legitimate policy of facilitating entry for the millions of legitimate tourists, businesspeople, and students who seek entry into the United States every year. As a result, the INS has yet to balance its policy of facilitated entry with an articulated counterterrorism strategy, let alone allocate the resources necessary to carry out such efforts.

The role of INS intelligence in identifying terrorists

Intelligence is the basis upon which the United States can act to identify and exclude terrorists from this country. With less than 100 part-time intelligence officers out of 29,000 employees, the INS has divvied up its personnel resources so that its Intelligence Division is almost wholly dependent upon intelligence from the rest of the intelligence community, which it does not routinely receive, and the 1,500 INS special agents, who are not required to report intelligence to the Intelligence Division. Nor is there a comprehensive intelligence database, although the INS is aware that such a database would be helpful. Additionally, only within the last few months has INS made identifying and excluding terrorists an important mission for INS Intelligence by appointing a counterterrorism coordinator at the field operations level at the agency’s Washington headquarters. This coordinator acts virtually alone, without any staff, money, or internal mechanisms in place to share important data such as Tipoff records and hits.

INS Intelligence field operations fall within the INS Enforcement Division, whose primary mission is not buttressing our borders against the entry of criminals or terrorists, but rather “to prevent aliens from entering the country illegally and to find and remove those who are living or working here illegally.”¹⁰ Intelligence “collects, evaluates, analyzes, and disseminates information relating to all INS missions, both enforcement and examination. Intelligence also directs the Headquarters Command Center, which maintains communications with other offices and agencies 24 hours a day.”¹¹

Intelligence agents are currently posted at 16 Joint Terrorism Task Forces (JTTFs) (28), the FBI Counterterrorism Center (4), the CIA Counterterrorism Center (2) and Interpol (2). There are no dedicated intelligence officers assigned to the field (other than those assigned to the JTTFs), although most of the intelligence INS

⁸ GAO Report “Combating Terrorism: Federal Agencies Efforts to Implement National Policy and Strategy,” NSIAD-97-254, p. 35 (Sept. 1997).

⁹ *Id.*

¹⁰ INS homepage at <http://www.ins.usdoj.gov/245.html#250>

¹¹ *Id.* Also working within the Enforcement division are Border Patrol, Investigations, and Detention and Deportation. Border Patrol is a mobile force of uniformed agents responsible for preventing illegal entry between ports of entry. Investigations enforces immigration laws in the interior, including working on multiagency task forces, inspecting places of businesses for unauthorized aliens, and identifying aliens deportable for criminal convictions. Detention and Deportation takes criminals and illegal aliens into custody and facilitates expeditious departure of those who have exhausted their legal remedies.

uses and enters into its databases emanates from the field or ports. Field intelligence is usually passed to an INS special agent from another law enforcement agent for "Lookout"¹² purposes. Currently, special agents perform double duty but report any intelligence gained to their field supervisor, not to the Intelligence Division. This established line of communication means that unless the field inspector or special agent writes an intelligence report or calls attention to particular intelligence, the Intelligence Division will not receive it. If lookouts are posted, they are usually done regionally through the INS by other agencies or entered into TECS II.

For intelligence originating outside of the INS, INS Intelligence does not continuously or even routinely receive intelligence community traffic like its parent, Justice, or colleague, the FBI. Rather, INS relies on cables and specific notices for its incoming intelligence feeds.

Also of note is that INS Intelligence does not have access to statements made during the asylum review process, potentially denying those in the intelligence and law enforcement communities critical information which could link applicants to foreign terrorist activity. Take for example Abu Mezer, whose asylum application included a discussion of his relationship to Hamas. Whether or not this information may have been significant to a determination to grant him asylum, or his true intent for seeking legal status in the United States, is unknown, but at least it should have been available in a secure manner to the intelligence and law enforcement communities.

A case study: procedures at airports

At airports, all individuals¹³ seeking admission into the United States must submit to an initial or "primary screening" conducted by either an INS or Customs agent. The screening consists of an examination and document check. If the individual is a U.S. citizen, the inspector has an option to use an expedited process, known as the accelerated citizen examination or "ACE," consisting of a documentation check but no IBIS database inquiry into names. This is usually done only during peak arrival times.

All non-citizens, however, must produce proper documentation and undergo an automated name check inquiry. This inquiry is conducted by an optical scanner and computer, which contains numerous criminal and intelligence databases. These databases are checked simultaneously prior to the alien being admitted.¹⁴

If an intelligence record or arrest warrant is on file for the alien, specific instructions appear on the computer monitor which are only visible to the inspector. The inspector may be instructed by the author¹⁵ of a particular computer record to immediately arrest the individual on the basis of a warrant charging the individual with violations of law enforced by the author's agency; or, to grant admission to the individual for operational purposes, such as gathering intelligence on the individual's contacts and activities while in the United States. On the other hand, the record's author may request that the individual be detained for questioning, at which point the individual is immediately routed to "secondary" or advanced screening. Although the INS states that it has excluded only three suspected terrorists, State, which supplies the Tipoff database, claims 345 exclusions. INS has admitted 63 exclusions for operational reasons.

Inspectors assigned to primary screening are expected to process one passenger per minute. This decision to approve entry or refer the individual to secondary screening for additional investigation must be swift. Inspectors are not required to

¹²The National Automated Immigration Lookout System II (NAILS II) is also available through TECS II, providing warning information to border and ports of entry officers which is generally provided by other law enforcement officers. For example, one such TECS II message reads: "Possible kidnap/murder threat against U.S. law enforcement agents by the Arellano-Felix organization * * * in retaliation for the recent loss of a significant drug shipment. * * * Appropriate U.S. law enforcement personnel should be made aware of the above information to insure proper safety measures are taken by entities associated with the interdiction of contraband along the Southwest border."

¹³INS policy requires all persons between 14 and 70 submit to a name check. Individuals outside of these ages are to submit at the discretion of the inspector.

¹⁴Section 432 of the Antiterrorism Act authorizes the INS to broaden the criminal alien identification system authorized (but apparently not established) under the 1994 Crime Act. The Illegal Immigration and Reform Act extends the authorization even further. Questions regarding implementation of this provision were included in an August 11 letter from Senator Kyl to the Attorney General. That letter and response are attached.

¹⁵Primary authors of computer records in IBIS can be local or state law enforcement, the FBI, as well as INTERPOL and the federal intelligence community, including the CIA, State Department, and DIA (Defense Intelligence Agency). The primary authors must use the INS and the Treasury law enforcement bureaus (Customs, Secret Service, IRS, BATF (Bureau of Alcohol, Tobacco, and Firearms)) as conduits to enter their record into IBIS.

wholly depend on documents and databases, however, to refer an individual to secondary. Rather, inspectors may refer an individual to secondary based purely on a behavioral or cultural anomaly suggesting that further questioning would be prudent. Inspectors are trained to conduct these examinations.

In secondary screening, senior INS inspectors conduct in-depth interviews of those referred for further investigation due to a computer response, document irregularity, or other suspicion. No time constraints exist in secondary screening and inspectors may call upon multiple investigative resources¹⁶ during the course of an inquiry.

At major ports of entry, senior inspectors with specialized training in detecting fraudulent documentation have access to a forensic laboratory where documents can be authenticated. If an initial inspection of the documents indicates fraud or misrepresentation, the inspector can seize the questionable documents and refer the subject to secondary screening for further investigation or action. In many false document or altered passport cases, the individual faces immediate return to his homeland.¹⁷ In aggravated cases, detention will occur pending the U.S. Attorney's decision whether to prosecute.¹⁸ In cases where an individual possesses fraudulent or incomplete identification and is of no further interest, expedited exclusion takes place, if possible on the same day using the individual's return ticket.

Technology used to screen applicants for admission.—When an inspector conducts a primary check of personal information, passport number, or documents, many databases are simultaneously queried through the IBIS. This one initial scan triggers a check in the National Crime Information Center (NCIC) and TECS II. NCIC queries for wanted persons for whom an arrest warrant exists. TECS II, on the other hand, is a broader database, created for the purpose of maintaining information on individuals suspected of illegal activities.¹⁹ More specifically, TECS II creates, maintains, and receives information on persons entering the United States. It is used at ports of entry by "Customs and INS officials * * * to alert officials to potential persons of interest".²⁰ TECS II is housed by the Treasury law enforcement bureaus²¹ and shared with the INS.

TECS II, in turn, also houses Tipoff, the aforementioned State Department database created and maintained by State's Bureau of Intelligence and Research (INR).²² Tipoff contains unclassified intelligence information regarding specific individuals which has been gleaned and processed by the INR. Related databases within IBIS are updated every 24 hours with both Tipoff and INS Lookout information. Lookout information represents data submitted by INS and Customs employees on new, unusual or dangerous situations which agents may encounter at the border.

If a positive response is received through either the IBIS or TECS II interface system, the inspector may take a variety of actions. If a record of an outstanding arrest warrant flashes from the NCIC, an arrest will ensue following positive identification and confirmation of the warrant. In many cases, the response may request discreet action, such as allowing entry of the passenger without arousing suspicion along with subsequent notification of a particular investigator or agency. Another variation of a TECS II instruction is to refer the individual to secondary inspection, where an investigation and interview are conducted by senior immigration inspectors.

In all TECS II responses, the author of the record provides his or her agency affiliation and contact number. Although not extensively used, TECS II has the ability to transmit digitized photographs of people and documents as an attachment to a positive response.

¹⁶ These resources may include the primary authors of relevant computer records.

¹⁷ Section 422 of the Antiterrorism Act authorized the expedited exclusion of aliens who are excludable because of misrepresentation or lack of valid documents. For more information, see "The Exclusion Process" in this report.

¹⁸ This is often difficult, however, since the INS suffers from a chronic lack of detention facilities, requiring INS managers to prioritize detainees and candidates for release. The Detention and Deportation division of INS operates nine detention facilities known as Service Processing Centers and places detainees when necessary in Bureau of Prisons institutions, approved contract facilities, or State and local jails.

¹⁹ Sources of information for TECS II are: U.S. Customs inspectors; FBI; INS; Bureau of Alcohol, Tobacco, and Firearms (BATF); U.S. Secret Service (USSS); Drug Enforcement Agency (DEA); IRS; International Criminal Police Organization (Interpol); and State and Agriculture Departments.

²⁰ April 14, 1993 INS fact sheet.

²¹ The Department of Treasury law enforcement bureaus are: Customs; U.S. Secret Service; Internal Revenue Service; and the Bureau of Alcohol, Tobacco, and Firearms.

²² Other databases automatically at interface with TECS II are: AVLOS (Automated Visa Lookout System); NCIC (National Crime Information Center); NAILS II (National Automated Immigration Lookout System II); CLETS (California Law Enforcement Telecommunications System); and NLETS (National Law Enforcement Telecommunications System).

Although TECS II interfaces with several other non-INS databases, it does not provide access to the entire contents of these databases. In this way, basic, specific information may be reported, but the contributing agency may retain the confidentiality of sensitive details.

Each time an arriving passenger's name is submitted for an automated check through IBIS, a record of the event is recorded in the database, retrievable at a later date. This information provides a mechanism to historically track an individual's entries, and even compare sets of individuals to determine associates of a specific target or latent trends.

At major airports, private aircraft carrying non-citizens are not usually examined by INS officials due to lack of resources. In these instances, U.S. Customs inspectors will perform IBIS inquiries and inspect personal belongings as well.

A relatively new counterterrorism tool available to the INS through Customs places passenger manifest lists from participating air carriers through the Advance Passenger Identification System (APIS). This system resides within IBIS and depends upon the carrier, while in a foreign country, to obtain the name and date of birth of passengers travelling to the United States.²³ Data is then automatically submitted to TECS II while the passengers are airborne, enabling inspectors advance notice of wanted persons and lookouts. These procedures increase the law enforcement response time if a positive "hit" is received. In many cases, advance notice enables law enforcement to be present for the arrival of the flight, or, if necessary, to warn the air carrier of a potential problem. In return for cooperation with U.S. border security, the air carrier can ensure its passengers of a quicker processing for admission. The one drawback to this program is that air carriers' participation in the program is discretionary, thus reducing its effectiveness.

The INS should also gain additional counterterrorism benefits from increased funding provided to its Data and Communications budget from Fiscal Year 93 to Fiscal Year 97 (\$120 million to \$349 million) and its Information and Records Management (\$89 million to \$170 million). Earmarked at \$16 million in the House report and \$14 million in the Senate report in INS' Fiscal Year 98 budget is the continued deployment and development of a biometric identification system (IDENT) and an electronic case processing system (ENFORCE).²⁴

According to an October 1997 Congressional Research Service report on the INS FY 98 budget: "The Administration requested \$18 million to deploy other inspection lookout systems and related technologies to ports of entry; of which, \$2.5 million was requested to develop an automated entry-departure control system to enable INS to identify nonimmigrants (e.g. tourists and foreign students) who overstay their visas. The Immigration Act of 1996 requires the development of such a system by September 30, 1998. Senate report language earmarks \$15 million to improve other inspections-related technologies. Of this amount, \$1.5 million is earmarked for an automated entry-departure control system pilot project. House report language earmarks \$13 million. Both Senate and House report language earmarks \$11.5 million to improve joint INS/Customs inspections-related technologies."

Level Two or "Secondary" Screening Procedures.—Once a referral is made from a primary inspector, there is no time guideline governing a secondary screening. Senior inspectors may need to perform a variety of functions, including forensic examination of questioned documents;²⁵ in depth interviews; taking of sworn statements; or even cursory or intrusive searches. Additional databases are also available for query. The results of a secondary screening can range from an update of INS forms, to detention for the purpose of an asylum evaluation, to arrest.

Entry and identification documents referred to secondary screening are examined on-site by inspectors using a variety of forensic tools, such as microscopes and other visual aids. Also available to verify the authenticity of a particular document or stamp is a photo-phone, an electronic device using a telephone line which transmits a high resolution image of the document in "real-time" to any recipient with a compatible image viewer, often a foreign consulate. The document can then be discussed and viewed simultaneously by the inspector and the consulate employee.

Individuals referred to secondary screening for an investigative interview complete a sworn statement, INS Form I-867, "Record of Sworn Statement in Proceedings" at the discretion of an inspector, unless the person is a suspect, in which case statements are sworn to as a matter of standard procedure. The significance of this form is that it contains a sworn statement by the detainee, which could be the basis

²³ Airlines are not able to input the name and birth date of last minute travellers.

²⁴ However, many within the INS have no confidence in the capacities of either system or their full implementation. IDENT suffers from the existence of several different incompatible systems and ENFORCE has never been expanded beyond a few pilots sites.

²⁵ Not all ports of entry have forensic resources available.

of a criminal charge if perjured; an asylum claim if a fear of return to homeland is expressed; or for intelligence-gathering purposes.

Evaluation of Initial Claims of Asylum.—The exception to expedited exclusion is if the alien expresses a fear of persecution if returned. If fear is expressed, the secondary screening inspector will document the claim using a standardized INS sworn statement form. The inspector then may seek additional background information at which time the detained alien is transported to a local jail or holding facility to await further interview.

Usually within 72 hours, an INS asylum processing officer will evaluate the applicant in an effort to determine whether a credible fear of return truly exists. The detainee, as an applicant for entry into the United States, is not afforded the right to remain silent and must answer all questions. This process marks the second opportunity for the INS to glean important background and affiliation information about the detainee. If the officer determines at this point that the fear of persecution is baseless, then a removal order is issued, subject to an appeal to an immigration judge, to be considered within seven days. Of note is that no information gathered from the alien during this process is routinely shared with the intelligence community, thus potentially depriving the relevant law enforcement agencies potentially critical information on aliens seeking entry into the United States.

If the asylum officer concludes that the detainee's fear of return is justified, however, the asylum process proceeds. An appearance bond is issued. This bond may be reduced subsequently at the discretion of an immigration judge. Bond reduction occurs frequently, unless specific inculpatory information is articulated by an INS attorney at a hearing to sufficiently oppose the reduction.

INS detention facilities

Section 440 of the Antiterrorism Act²⁶ required the Attorney General to detain aliens deportable for criminal convictions from the time of their release from criminal confinement until their removal from the country. The law also broadened the class of criminal and removable aliens that the Attorney General must detain pending a deportation hearing. Recognizing that detention space was inadequate to meet the requirements of the law, Congress included a provision in the Immigration and Nationality Act which permitted the Attorney General to invoke a transition period for up to two years, during which certain aliens may be released pending a deportation hearing. To help ease the transition, Congress increased funding for the detention and removal of criminal and other inadmissible aliens by \$470 million for FY 98.²⁷ Of this \$470 million, \$120 million is unused. For FY 98, the House has earmarked this amount for furthering detention resources.

Despite the fact that some of the monies allocated to detention resources went unused last year, Attorney General Reno announced on October 31 that more than 111,000 illegal immigrants were removed from the United States in FY 97, far exceeding the 68,000 removed in FY 96 and the goal of 93,000 for FY 97. About 50,000 of those deported had criminal records, mostly for aggravated felonies and drug charges. Justice, along with the INS, considers these numbers to be important enforcement milestones, as well as an indication that increased funding for detention space and border technologies are paying off. Important as these milestones are, it would be particularly enlightening if INS knew even an approximate number of illegal aliens or overstays currently residing in the United States.²⁸

INS interaction with other agencies at the border

As a participant in IBIS, the INS routinely shares and has access to the same intelligence information available to the other participants of the IBIS system, primarily Customs, State, as well as the Agriculture Department which is responsible for the importation of farm related products. These participants routinely issue look-outs and notifications to each other of suspicious passengers or cargo.

²⁶ Now INA § 241(a)(2). "Detention. During the removal period, the Attorney General shall detain the alien. Under no circumstances during the removal period shall the Attorney General release an alien who has been found inadmissible under section 212(a)(2) or 212(a)(3)(B) or deportable under section 237(a)(2) or 237(a)(4)(B). Section 212 deems inadmissible those with a criminal or terrorist history. Section 237 permits deportation based on criminal or security grounds.

²⁷ From FY 93 to FY 97, funding for the Detention and Deportation program has grown from \$193 million to \$630 million—an increase of 226%. In FY 96, INS removed over 68,000 aliens (37,272 criminals and 30,936 non-criminals).

²⁸ One source at the INS states that the Office of Statistics has produced a figure that of the approximate 4.5 million illegal aliens in the United States, about 45 percent were visa overstays. However, that figure was not able to be confirmed for this report.

At ports where there is a large volume of passengers and attendant enforcement responsibilities, strong working relationships are also maintained with other federal and local law enforcement agencies. Sensitive training is also provided by the INS to members of the intelligence community regarding foreign immigration procedures.

At the present time, there are several overseas posts staffed by INS personnel designed to increase the level of interaction and informational sharing capability between the INS and the host governments.

Foreign Student Tracking Program

In 1996, Congress mandated that the INS develop and deploy the Foreign Student Tracking Program.²⁹ This tracking program was born out of national security concerns expressed by FBI Director Freeh and former Deputy Attorney General Jamie Gorelick in 1995 about the inability of the INS to track foreign students' whereabouts, courses of study, and sources of funding. An INS task force created to address these issues said that the guiding principle was that "the American public needs to have some basic level of comfort in the knowledge that its government is guarding against the danger * * * [of] instances where terrorists and criminal aliens have been linked to student visas."³⁰ In 1996, this report became the basis for a law requiring INS to develop a national system for tracking foreign students.

This program is intended to eliminate opportunities for terrorists to enter the United States as students. Also important about this program is that it will give universities and students the advantage of more efficient processing of student visas and record-keeping, with no new legal requirements imposed. Fully implementing the program will result in less cumbersome procedures for foreign students who seek to come to the United States for legitimate academic pursuits.

While the law required the national program to begin on January 1, 1998, the INS has only just begun to implement even the pilot program. In response to this mandate, INS prudently initiated development of a pilot program in preparation for developing the national system. The INS has had to spend about \$3 million on developing the pilot to date. Another \$2 million is required to get the pilot up and running in the near future, but as of the publishing of this report, INS management had cut funding to mere "maintenance" of an incomplete pilot, and cut out all funding for development of the national program.

State Department role in identifying terrorists

State plays a critical role in identifying and excluding terrorists who apply for visas at consular offices overseas before they reach our borders, as well as providing the INS with critical information at our borders.

Tipoff

State's Tipoff system may be the single most important tool available to the INS to identify terrorists. This database makes available the names of aliens reasonably suspected to be involved in or closely associated with terrorist activity. It permits INS agents (through IBIS) and employees at consular offices abroad (through State's database CLASS) to more closely scrutinize individuals prior to granting travel documents or granting admission into the United States. As a result, Tipoff is a significant tool in identifying terrorists, with 248 individuals denied visas and 97 denied admission or arrested at ports of entry since its inception in January 1987. Tipoff also provides collateral benefits, including: providing intelligence and operational opportunities; driving up the cost of organizing and committing terrorist acts; disrupting travel routes and lines of communications; and fomenting paranoia within related terrorist organizations.

Tipoff contains nearly 40,000 total records on terrorists and related criminals, with records broken down into categories based on the definition of terrorist activity in Section 212 of the Immigration and Nationality Act (INA). The criteria for creat-

²⁹ P.L. 104-208 §641.

³⁰ Foreign terrorists have been able to gain entry into the United States using student visas. For example, two aliens convicted for their involvement in the World Trade Center bombing conspiracies entered on a student visa. One of the convicted, Nidal Ayyad, had an American-earned science degree which helped provide cover for the purchase of some of the chemicals used to create the bomb used in the February 26, 1993 bombing.

In addition, some terrorist sponsoring countries fund the U.S. education of their nationals in the sciences, whose scientific expertise, in turn, is used against U.S. interests. See Washington Institute Sept. 97 Research Memorandum, "Open Admissions: U.S. Policy Toward Students From Terrorism-Supporting Countries in the Middle East," which highlights cases where three Iranians and one Iraqi known to be educated in the United States returned to their countries to help develop those countries' nuclear programs.

ing these records are: (1) reasonable suspicion³¹ that the alien has engaged or may engage in terrorism and (2) sufficient biographical data for positive identification. The categories are as follows, in order of the largest to smallest number of records (one individual can have multiple records): Likely to engage in terrorism if enters United States (7,217 records); provides support—safehouse, weapons, money, false identity, etc. (6,445); solicits membership or terrorist acts by others (5,253); prepares/plans terrorist activity (4,173); intelligence agent (3,528); user of explosives or firearms (2,647); member of a foreign terrorist organization (2,455); has engaged in terrorism (2,295); assassin (1,556); additional intelligence required (1,095); hostage taker/holder (677); lost/stolen passports in terrorist hands (676); user of nuclear/biological/chemical agents (562); gathers intelligence on potential targets (454); hijacker (393); solicitation of funds for terrorist activity (161); representative of a foreign terrorist organization (158); silent hit (125); and attacker of internationally protected person (28).

One category which the Antiterrorism Act enhanced is "membership in a foreign terrorist organization." Under Section 302 of the Antiterrorism Act, a new Section 219 was added to the INA permitting State to designate foreign terrorist organizations for a number of purposes (discussed subsequently in this report), including denial of admission to aliens who are members of foreign terrorist organizations designated as such by the State Department. The value of this provision is that it enables the INS to deny admission, or State to deny a visa, based solely on a reasonable suspicion that the alien is a member of a designated organization. Prior to this law, membership in an organization, without reasonable suspicion of associated terrorist activity, was not sufficient to deny admission. In one instance, a Hizballah member was admitted prior to enactment of the Antiterrorism Act even though Tipoff had reasonable suspicion of membership but no other activity, giving INS no option other than to admit the alien.

According to an agreement entered into in June 1991 between INS, Customs, and the State's INR on the "Implementation and Use of the Tipoff System of Records at Ports of Entry," the INS works with INR to determine under what criteria individuals will be listed. The agreement gives Tipoff's three primary objectives:

- (1) To alert inspectors at ports of entry to the imminent danger of individual terrorists.
- (2) To alert the Intelligence Community that an applicant for admission of interest is seeking entry into the United States.
- (3) To positively identify and place the applicant for admission in secondary inspection for a reasonable period until a determination can be made regarding the appropriate disposition of the applicant for admission.

The agreement provides that the INR cull basic information from intelligence sources which INS and consular offices then check automatically during the course of processing an individual. This information includes name; date of birth; country of origin; passport number; and a lookout record number. Only INS, not Customs, may take law enforcement action when positive Tipoff information is received.

INS maintains a 24-hour duty officer available through its headquarters to be the single point of contact for Tipoff records, the liaison to the INR, and the notifier of the FBI when appropriate. INR also has a 24-hour duty officer. The INS duty officer is then responsible for giving directions as to how to proceed with the alien, without communicating classified information, to the port of entry INS officers. The INR duty officer acts as a liaison between INS and the intelligence source of the information which Tipoff has summarized, with the intelligence source providing INS with further necessary information to make a determination on the application for admission, and the INS providing the intelligence source with the updated information about the alien. If INS is not advised within eight hours of what information the intelligence source will release to it, the INS may process the applicant for admission.

At overseas consular offices, staff is prevented from taking any action until advised by Washington headquarters how to proceed with the visa application. State's policy is that a decision to grant or deny a visa should be completed within a few days, although State may take up to thirty days to provide an answer. Under Section 412 of the Antiterrorism Act, the consular officer need not advise the applicant of the reason for a denial if the denial is based on criminal or national security

³¹ The standard of "reasonable suspicion" was taken from a confidential task force report written in the early 1980s which suggested a border watch list be created to improve national security. The task force suggested that the watch list database hold names of those who may seek admission for criminal purposes. The reasoning was that since the database only compiles names of those who may seek admission, the higher standard of excludability need not be met.

grounds, thus enabling the intelligence community to withhold from the alien U.S. knowledge of terrorist activities.³²

There have been about 5,550 "hits" since 1987 when the database was made available overseas, but only 791 "true hits" where the person listed matches the person checked. A total of 248 were actually denied visas, with 40 categorized as soliciting members or terrorist acts by others; 35 as providing material support; 34 categorized as intelligence agents and another 34 as hostage takers; 20 as users of firearms or explosives; 16 as preparers or planners of terrorist activity; 13 as assassins and 12 as "likely to engage in terrorism if enters U.S."; 10 as gatherers of intelligence on potential targets; and seven users of nuclear, biological, or chemical agents. A total of 225 were admitted, 10 for humanitarian reasons, 100 for foreign policy reasons, and 115 for operational reasons, which frequently means that the Federal Bureau of Investigation has requested admission for the purpose of gathering investigative information on an individual and his associates.

At ports of entry, there have been 327 "hits," with 226 "true hits" since the database's availability to the INS in 1991. Of the 97 where entry was denied or the individual was arrested, 30 were for providing material support; 13 were for solicitation for terrorist acts and another 13 were because the alien was a user of firearms or explosives; 10 were for those "likely to engage in terrorism if enters U.S."; five were "assassins"; and four were "hostage-takers". Also of these hits, 73 were admitted for operational reasons. Of these 327 total hits, 96 were at JFK and 61 at Miami International Airports, with the next largest numbers of hits at the Los Angeles (20) and Dulles (17) International Airports.

Viper Program

In an effort to further enhance border security and submit aliens to the closest possible scrutiny prior to entry into the United States, in August 1993, State created the Viper Program, an intra-agency reporting program on terrorist activity overseas. The idea for Viper was conceived after questions were raised about the entry of Sheik Omar Abdul Rahman when investigators became aware of his intimate involvement in the World Trade Center bombing of February 1993. Viper ensures that names of all possible terrorists provided to State are entered, if warranted, into the automated name check system for the purpose of maximal sharing of the information. Names are provided through both ad hoc and required quarterly reporting and by overseas consular offices on terrorist activity.

Viper's focus is to report on those posing a current threat to U.S. interests at home or abroad. However, information is also gathered on those who have engaged in terrorist activities against U.S. interests in the last 15 years, and those currently conducting terrorist acts against foreign interests. The criteria for entry into Viper is the same as for Tipoff: reasonable suspicion and sufficient identifying information. To date, 17 visas have been denied as a result of the Viper program.

United States-Canada Shared Watch List Program

On May 27, 1997, the United States and Canada signed an "Aide Memoirs" to share the Tipoff information with Canada. Canada now has access to the same Tipoff information U.S. consular offices and ports of entry receive. Canada will also share intelligence information it gleans with State. The hope is that a wider pool of intelligence on terrorists' activities will prove beneficial for both countries.

*Visa Waiver Pilot Program*³³

Created by Congress in 1986³⁴ and implemented in 1988, the Visa Waiver Pilot Program permits aliens from participating countries to come to the United States without a visa. These aliens can do so without a visa for up to 90 days, if they travel to the United States for business or tourism, as long as no visa ineligibilities exist, such as a criminal record. Twenty-six countries³⁵ now participate in this program,

³² Section 412 of the Antiterrorism Act augments current consular office procedures by not requiring that an alien denied a visa by State, or denied admission or adjustment of status by the INS, be given written notice of the basis for denial. Also excepted from the notice requirement are denials of visas, admission, or adjustment based on criminal or security grounds. In addition, the Secretary of State is authorized to waive the notice requirement for any class of visa applicant.

³³ IIRIRA changed authority for the admitting participants into the program from the State Department to the Justice Department.

³⁴ 48 U.S.C. 1187 §217.

³⁵ The countries, and the year admitted, are: Andorra (91); Argentina (96); Australia (96); Austria (91); Belgium (91); Brunei (93); Denmark (91); Finland (91); France (89); Germany (89); Iceland (91); Ireland (95); Italy (89); Japan (88); Liechtenstein (91); Luxembourg (91); Monaco (91);

Continued

and 55 percent (about 12.4 million in 1996) of the business and travel visitors who enter the United States now take advantage of this program. Both the Czech Republic and Slovenia are now requesting entry into this program.

According to State, this program affords the government the ability to deny entry based on criminal or terrorist information without the lengthy and difficult procedures associated with a visa revocation, which requires a decision by the Secretary of State.

Whatever streamlining this program affords, however, one extremely detrimental result of this program is that it puts the entire burden for exclusion on the INS by permitting terrorists to skip an important element of the screening process consulate screening on foreign soil subject to a 30 day (as opposed to one minute at ports of entry) limit with a guaranteed search in the CLASS database. In 1985, Yu Kikumura, a major figure in the Japanese Red Army terrorist organization, was arrested on the New Jersey Turnpike at a rest area by a suspicious state trooper. He was convicted for carrying explosives for an attack on the United Nations which was to coincide with an attack in Italy that killed an American. Kikumura entered the United States by exploiting the visa waiver system, and there is nothing stopping other terrorists from attempting to do the same. This result shifts the burden of identifying and denying visas, and thus excluding such terrorists, from State to the INS.

THE ANTITERRORISM ACT

The 1996 Antiterrorism Act was passed in the aftermath of the 1993 World Trade Center and 1995 Oklahoma City bombings. Its purpose was to significantly enhance American counterterrorism efforts both at home and abroad. The Act sought to increase the security role of the INS by significantly revamping immigration law to make it more difficult for terrorists to enter and stay in the United States. The Act also modified asylum and deportation procedures. (Subsequent modifications then occurred a few months later when the Illegal Immigration Reform and Immigrant Responsibility Act [IIRIRA] was signed into law.)

The Act also lengthened the long arm of U.S. law overseas by supplementing the types of crimes considered terrorist acts and extending U.S. law to acts occurring abroad. In addition, entire titles of the Act are devoted to reforming death penalty procedures and expanding current laws regarding mandatory victim restitution. Another title is devoted to assisting law enforcement with carrying out its augmented responsibilities under the Act. Much of this title is devoted to the FBI, which is given primary investigatory responsibility for all federal crimes of terrorism under the Act. Here, however, the focus is on two of the Act's most contested provisions: (1) the authorization given to State to designate foreign terrorist organizations and (2) the Alien Terrorist Removal Court. Both provisions were intended to be important tools for excluding and removing terrorists from the United States.

*1996 enhancements to the exclusion process*³⁶

Technically, excluding terrorists means denying an alien a visa at an overseas consular office or denying admission at a U.S. port of entry or border. Therefore, exclusion works in tandem with identification, so that once a terrorist is identified, State or the INS can then effectively exclude the individual. To date, Tipoff (State's terrorist database) has helped the INS exclude or arrest 97 terrorists, although INS claims only three exclusions from FY 94 to FY 97.

Members of terrorist organizations inadmissible

Filling a gap in the law, Section 411 of the Antiterrorism law makes being a member or representative of a foreign terrorist organization designated pursuant to INA Section 219³⁷ grounds for denying an alien admission to the United States (but not for deporting an alien). As a result, only designated organizations have their members or representatives excluded solely on the basis of their membership. Organizations not designated, like the IRA, are not subject to this provision. The only exception is an explicit INA provision stating that "an alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in terrorist activity."³⁸

Netherlands (89); New Zealand (91); Norway (91); San Marino (91); Slovenia (97); Spain (91); Sweden (89); Switzerland (89); and United Kingdom (88).

³⁶A discussion of exclusion is necessarily interwoven into the section of this report entitled "Identifying Terrorists," and its subsection on the role of the INS in identifying terrorists, and thus will not be repeated in this section.

³⁷INA § 212(a)(3)(B)(i) (IV) and (V).

³⁸INA § 212(a)(3)(B)(V).

As amended by the IIRIRA, the definition of "representative" of terrorist organization is limited to instances in which the alien knows or should have known that the organization is involved in a terrorist organization. As under previous law, this provision makes an alien deportable for engaging in terrorist activities. "Engaging" is defined as providing material support, intelligence or preparation and planning for a terrorist activity or soliciting funds or members for a terrorist organization.³⁹

Expedited exclusion

The INS did not begin to implement the new expedited exclusion provisions available under the Antiterrorism Act and IIRIRA until April 1, 1997.⁴⁰ Section 422 of the Antiterrorism Act authorizes the expedited exclusion of aliens who present fraudulent documents or lack valid documents, except for aliens expressing a credible fear of returning to their countries. Section 423 compliments Section 422 by severely limiting judicial review of exclusion orders issued under the special expedited removal procedures authorized under Section 422. Collateral removal orders in actions to assess criminal penalties for illegal entry or reentry are precluded. These provisions are substantially continued under the IIRIRA. These laws together also change immigration law significantly by redefining aliens who enter without inspection as not admitted, and thus excludable, rather than admitted and subject to deportation proceedings.

As of July, 1997, the INS had gathered three months of data on expedited exclusion implementation, including information on implementation of the "fear of return" provision. Statistics were compiled from 25 of the largest ports of entry and INS' eight asylum offices. New automated data systems were being designed to track individuals subject to expedited exclusion. The preliminary data indicates that 1,200 people per week were subject to expedited exclusion from April 1 through June 30. Of these cases, 80 percent were from ports of entry on the southwest border.⁴¹ The INS also reported the following statistics:

Of the reported cases arriving at the 25 largest land, sea and air ports involving aliens subject to expedited removal, approximately five percent were referred by INS inspectors for a "credible fear" hearing before an asylum officer.⁴²

Of the cases involving 25 of the airport ports of entry, about 20 percent of the arriving passengers subject to expedited removal were referred to an asylum officer for a "credible fear" hearing.

Approximately 33 percent of those persons inadmissible under expedited removal have been permitted to withdraw their applications for admission. The INS may permit an arriving alien to withdraw an application for admission to avoid the penalties associated with a removal order. Withdrawal is appropriate, for example, if the arriving alien lacks proper documents innocently rather than through an effort to circumvent the immigration laws.

About 80 percent of the total number of cases referred and interviewed have met the "credible fear" standard. These aliens were provided the opportunity to have their asylum claims heard by an immigration judge.

The vast majority of aliens placed in expedited removal have been Mexican nationals. Of the cases referred for credible fear, the two largest nationalities were Chinese (17 percent) and Sri Lankan (15 percent). Nationals from 60 countries have been referred for a "credible fear" interview.⁴³

In addition, the INS "took steps beyond what is required in the statute to ensure that aliens affected by expedited removal are treated fairly and that their rights are protected."⁴⁴ Some of these steps include: asking all those subject to expedited exclusion whether fear of return exists; permitting "credible fear" interviews to take place after 48 hours in a detention facility to permit the alien time to review "credible fear" process information, and obtain consultation and rest; requiring INS supervisors to review all decisions of secondary inspectors and asylum officers before they

³⁹Two Ninth Circuit decisions in *American-Arab Anti-Discrimination Committee v. Reno* (1995 and 1997) have circumscribed the reach of this provision. The decisions suggest that aliens have First Amendment rights of association. See section on "Removing Terrorists" for a more detailed discussion of these cases.

⁴⁰On August 1, 1997, Chairman Kyl sought information about the implementation of this provision. Questions read: "How are those provisions being implemented to expedite the exclusion of aliens who are excludable because of misrepresentation or lack of valid documents? How are they applied in this case? Are those who attempt to enter without proper documentation being excluded at the border? What has been done to educate those patrolling the border about the requirements of this law and IIRIRA?"

⁴¹INS Fact Sheet, "Update on Expedited Removals" 7/9/97.

⁴²All asylum officers undergo a three week basic training class. Those handling "credible fear" and expedited removal receive additional training.

⁴³INS Fact Sheet, "Update on Expedited Removals" 7/9/97.

⁴⁴*Id.*

take effect; and placing those who meet the "credible fear" criteria in removal proceedings before an immigration judge, in front of whom asylum and other forms of relief can be applied.

Expedited exclusion as applied to aliens who enter without inspection

Abu Mezer entered without inspection (EWIs) three times. But despite Section 414 of the Antiterrorism Act giving the INS authority to apply expedited exclusion provisions to EWIs, the INS has decided not to use this authority. Instead, expedited exclusion is only being implemented at ports of entry. Technically, the Antiterrorism Act provided that EWIs are removable through exclusion procedures, rather than deportation procedures. But when Section 422 of the Antiterrorism Act did not specifically address whether EWIs were subject to expedited removal, IIRIRA then extended expedited removal to EWIs who have not been here two years.

Removal pursuant to the Antiterrorism Act

The INS reports it has deported 155 persons for terrorist reasons from FY 94 to FY 97. So far, however, there have been no removals sought pursuant to one of the most important and controversial provisions in the Antiterrorism Act, the Alien Terrorism Removal Court, whose purpose was to enable Justice to seek removal of aliens where only classified evidence existed linking the alien to terrorist activity. The reasons for the delay appear to be a combination of lingering, and somewhat unhelpful, codified definitions of terrorist activity; a recent Ninth Circuit decision; codified immigration law; and substantial prudence on the part of Justice officials.

Section 401

Section 401 of the Antiterrorism Act establishes a special Alien Terrorist Removal Court (ATRC) to remove non-citizen terrorists who threaten the national security of the United States. The law enables the Attorney General to seek recourse to the court whenever removing an alien on terrorism grounds through the usual deportation⁴⁵ administrative process would jeopardize national security. An alien may be removed based on classified information *ex parte* and *in camera*. The Removal Court itself is made up of five District Court judges to serve five year terms, appointed by the Chief Justice of the Supreme Court.

The law provides the Attorney General with the power to initiate removal procedures by filing an application with the ATRC indicating probable cause that an identified alien is a terrorist and that recourse to normal removal procedures would pose a risk to national security. A judge of the special court considers the application *ex parte* and *in camera*. The hearing itself is public. Classified information supporting the application also may be introduced in chambers and out of the alien's presence. Appeals from interim or final decisions are available.

Section 401 of IIRIRA distinguishes between permanent resident aliens and other aliens by requiring that permanent resident aliens be appointed a special counsel to examine the classified information on the alien's behalf. This addition was born out of caution, since a deportation is a civil proceeding where the derived rights are statutory and do not require the more extensive procedural rights constitutionally required in criminal cases.⁴⁶

⁴⁵ The INS has determined that the ATRC only applies to cases of deportability, not inadmissibility. Traditionally, a distinction was made between an alien subject to deportability (deemed to have entered the U.S.) and an alien who was inadmissible (seeking entry). The INS concluded the narrow reach of ATRC jurisdiction after examining how "alien terrorist" is defined pursuant to INA §241(a)(4)(B), and its updated version, INA §247(a)(4)(B), neither of which mention a terrorist ground for inadmissibility, and only the earlier version of the law mentioning a ground for deportability. In addition, the conference report attached to the Antiterrorism Act which created the ATRC only refers to deportation cases. To facilitate addressing the circumscribed reach of the ATRC, the INS recently promulgated regulations (8 CFR §235.8(e)) which extends the ATRC's jurisdiction to those illegal aliens who enter without inspection.

⁴⁶ Testimony of Seth Waxman, submitted to the Senate Judiciary Committee while he was in the Deputy Attorney General's office, and during consideration of the proposed Omnibus Counterterrorism Act of 1995, regarding provisions relating to alien terrorist removal and fund-raising for terrorist activities.

Implementation of section 401

The ATRC has judges⁴⁷ and rules⁴⁸ in place, but a year and a half since the passage of the Antiterrorism Act, the Attorney General has yet to make an application to it. Ironically, it is Justice that supported the creation of the ATRC for its significant, if admittedly limited, use. During consideration of this provision, now Solicitor General Seth Waxman argued convincingly for the need for the ATRC:

"The existing deportation procedures under the INA were not designed to address such cases [where only classified information supports deportation based on terrorist activity], forcing the government to abandon deportation efforts where critical classified evidence cannot be used due to the absence of protective procedures. I have personally received materials relating to some of these cases, and I can tell you the problem is both real and deadly serious. There are deportable aliens in this country known to be actively supporting terrorist organizations whom we have not sought to deport because we simply cannot publicly disclose FISA intelligence and confidential sources and methods. We have been compelled to allow the naturalization of a number of known terrorism supporters—because we are unable to use classified information against them."⁴⁹

The hope was that, with a definitional change of "engaging in terrorist activity" in the law, one significant use of the ATRC would be as a springboard for removing aliens who provide material support to foreign terrorist organizations through fundraising here in the United States. To turn this hope into reality, Justice proposed a change in the definition of terrorist activity under 18 U.S.C. § 212(a)(3).⁵⁰ This definition bans "material support" to a terrorist organization, including fundraising. But the way the definition is written, the alien must know, or reasonably should know, that money raised is going toward a terrorist activity. Considering that large, well-organized terrorist organizations, like Hamas and Hizballah, have substantial community-based charitable social service functions,⁵¹ it is exceedingly difficult to prove that an alien who raises funds for a terrorist organization has reason to know that particular monies are being funneled directly into specific overseas terrorist activity. The Senate passed the definitional change, the House did not, and the change dropped out at conference. The ATRC, then, was given a legal framework but was deprived of the means to make it a robust, working court.

Complicating using the ATRC as a forum to remove aliens who raise money for terrorist organizations are the two Ninth Circuit decisions in *Arab-American Anti-Discrimination Committee v. Reno*.⁵² This first decision (1995) suggests that the due process procedures set out for the ATRC can be subject to both statutory and con-

⁴⁷ Chief Justice Rehnquist appointed the five judges to serve on the ATRC in 1996. The Chief Judge is the Honorable Earl H. Carroll of Phoenix, Arizona. The other four judges are the Honorable Michael A. Telesca of Rochester, New York; the Honorable David D. Dowd, Jr. of Akron, Ohio; the Honorable William C. O'Kelley of Atlanta, Georgia; and the Honorable Alfred M. Wolin of Newark, New Jersey.

⁴⁸ On May 28, 1997, Chief Judge Earl Carroll ordered rules be adopted for the Alien Terrorist Removal Court (ATRC). These rules set out the site for the court (U.S. Courthouse, Washington, D.C.) and procedures for application to the court, motions, subpoenas, use of classified information, as well as the content of the required pre-hearing memorandum. On March 14, 1997, the U.S. Court of Appeals for the District of Columbia Circuit issued appellate rules for the ATRC. Appeals to the Circuit Court may be based on the denial of a removal application, a decision after a removal hearing, a release or a detention order, or interlocutory (if a dispute arises over a discovery order).

Security procedures have yet to be adopted. Promulgation of these rules is a joint effort between the Director of Central Intelligence, the Attorney General, and the Chief Judge of the ATRC. Justice states that the lack of security procedures is not a hindrance to a decision by the Attorney General to make an application.

⁴⁹ Testimony of Seth Waxman, submitted to the Senate Judiciary Committee while he was in the Deputy Attorney General's office, and during consideration of the proposed Omnibus Counterterrorism Act of 1995, regarding provisions relating to alien terrorist removal and fundraising for terrorist activities.

⁵⁰ 18 U.S.C. § 212(a)(3) provides that, if a consular officer or the Attorney General has a reasonable ground to believe that an alien is engaged in terrorist activity, that alien is inadmissible.

⁵¹ For more information on the activities of these and other Middle East terrorist organizations, see the CRS Report for Congress on "Terrorism: Middle Eastern Groups and State Sponsors, 1997" by Kenneth Katzman (July 10, 1997).

⁵² 70 F. 3d 1045 (9th Cir. 1995).

stitutional challenge.⁵³ The second decisions (July 1997)⁵⁴ held that First Amendment associational activity such as recruiting members and raising humanitarian aid is protected activity. That means if an alien provides "material support" to an "international terrorist and communist organization" which also engages in lawful activity such as "education, daycare, health care, social security; and cultural activity such as publications and political organizing,"⁵⁵ the "lawful" activity shields this individual from being deported on the grounds of materially supporting a terrorist organization. The Ninth Circuit thus upheld preliminary injunctions against the deportation of seven Palestinians and a Kenyan-born wife in this case, whom Justice had been trying to deport for 10 years.⁵⁶

Newly codified immigration law also seems to diminish the need for the ATRC. After the enactment of the Antiterrorism Act in April of 1996, IIRIRA became law, codifying procedures for the deportation of aliens based on classified information.⁵⁷ These procedures basically codified an array of existing case law,⁵⁸ statutory law⁵⁹ and INS regulations.⁶⁰ These procedures permit immigration judges to consider national security information offered by the government in opposition to an alien's admission to the U.S. or to an application by an alien for discretionary relief in proceedings on an alien's admissibility or deportability without the alien being entitled

⁵³ *Arab-American Anti-Discrimination Committee v. Reno* held that there was no statutory authority for the INS to consider undisclosed classified information in deciding whether an illegal alien qualified for legalization under the IRCA. The court also said that the balancing test used in due process cases suggests that the use of undisclosed information in adjudications should be presumptively unconstitutional.

⁵⁴ See *Arab-American Anti-Discrimination Committee v. Reno*, 1997 U.S. App. LEXIS 17533 (July). The suggestion of the holding in this case circumscribes numerous provisions of the Antiterrorism Act by suggesting that non-citizen aliens have First Amendment rights of association. Affected provisions, other than the ATRC, are: section 302, providing that it is unlawful to knowingly give, or attempt to give, material support or resources to a foreign terrorist organization; section 411, which makes a member or representative of a terrorist organization who solicits funds or members on behalf of a terrorist organization grounds for denying an alien admission to the U.S.; section 413, renders aliens who have engaged in terrorist activities ineligible for various types of relief from forced removal; section 421, specifically making an alien deportable on the basis of past terrorist activities ineligible for asylum; and section 726, which makes it a crime to launder the proceeds from various terrorist-related offenses, including financial support of terrorists, and makes such crimes predicate offenses to the money laundering statute.

On August 19, Justice filed a petition for a rehearing en banc in this case, in part on the basis that the First Amendment holding disregards substantial prior case law. According to Justice, hundreds of cases are affected by this decision.

⁵⁵ *Id.* at 4.

⁵⁶ The court also found that aliens' First Amendment rights also suffered in this case from disparate impact (others similarly situated were not prosecuted) and discriminatory motive (impermissible prosecutorial motive).

⁵⁷ See IIRIRA § 304 (incorporated at INA § 240).

⁵⁸ *Jay v. Boyd*, 351 U.S. 345, 354 (1956). In *Jay* the Supreme Court held that the INS can use classified information to oppose an application for discretionary relief in a deportation case. The Second Circuit Court of Appeals has already decided that the denial of a withholding of deportation based wholly on confidential undisclosed information was not a violation of due process. *U.S. ex rel. Dolenz v. Shaughnessy*, 206 F.2d 392 (2nd Cir. 1953), cert. denied, 345 U.S. 928 (1953). The Second Circuit reasoned that "Congress intended the Attorney General to use whatever information he has. To preclude his use of confidential information unless he is willing to disclose it to the alien would defeat this purpose." *Id.* at 395.

An example of how the INS has been able to rely upon these procedures is when an immigration judge's denial of asylum and withholding of deportation of Sheik Omar Abdel-Rahman was upheld by the District Court on the ground that "there are reasonable grounds for regarding him as a danger to the security of the United States." *Ali v. Reno*, 829 F.Supp. at 1436. According to an INS brief, "the authority of the immigration judge and the Board to rely on undisclosed classified information under 8 CFR § 208.1(c) and 8 CFR § 236.3(c)(4) was considered so incontestable by the District Court * * * that the court expressly stated that this was not an issue before the court because 'clearly they could [rely on classified information]. *Id.* at 1435.

⁵⁹ INA § 235(c) permits the INS to use expedited procedures to oppose the admission of terrorist for national security reasons.

⁶⁰ 8 CFR § 235.8 are the INS wholly written proceedings created to put § 235(c) (see previous footnote) to use. The typical (but rarely encountered) scenario might look something like this: an alien arrives at the airport and attempts to legally enter; the inspector receives an immediate computer database hit stating reasonable suspicion to believe the alien is a terrorist; the alien is immediately issued a Temporary Notice of Inadmissibility and given five days to respond; the Notice is immediately sent to the INS regional director, who reviews the petition and accompanying classified information, and issues an order of exclusion; the alien then has an immediate right of appeal to the Court of Appeals. These proceedings are seldom used, however, because the alien has the right to withdraw his application for admission and depart before the proceedings get underway.

to examine this information.⁶¹ This law thus offers an alternative to the ATRC by not requiring an application process or a summary of the classified information, and not permitting interlocutory appeals.

Because these procedures afford Justice easier, more efficient processing of aliens involved in terrorist activities, as well as full protection of the intelligence supporting the allegations of terrorist activity, Justice takes full advantage of them, with the direct result that cases considered for the ATRC are being redirected into conventional deportation hearings.⁶² In the past year, the INS has instituted about 20 removal proceedings where classified evidence was presented in camera and ex parte to oppose discretionary relief.

Moreover, Justice has reason to be cautious in bringing a case before the ATRC. Assuming that the first application accepted by the ATRC will have to withstand constitutional challenge to the ATRC itself at the Supreme Court,⁶³ Justice wants to make sure that the first case before the ATRC will not be easily challenged on constitutional grounds. As Justice sees it, the wrong case could mean the constitutional nullification of the ATRC.

In part to maximize the survivability of the ATRC and to inject efficiency and common sense into the process of deciding what cases to bring before the ATRC, in July 1996, Justice set out interim procedures for the implementation of ATRC actions against alien terrorists. A Task Force on ATRC actions chaired by the Terrorism and Violent Crime Section and overseen by the Deputy Attorney General, is comprised of representatives of the Terrorism and Violent Crime Section, Criminal Division; Office of Immigration Litigation, Civil Division; FBI; INS;⁶⁴ and the Office of Intelligence Policy Review. Case recommendations may come from the INS, the Civil Division, other agencies, and U.S. Attorneys' Offices. These cases are initially evaluated by FBI field agents in conjunction with FBI headquarters' agents and the General Counsel's office. They are then forwarded to Justice's Violent Crime and Terrorism Section for discussion and evaluation.

In essence, the Task Force will not consider a case for the ATRC if an alleged terrorist alien can be deported by charging him with a basic immigration or criminal violation; or if the classified information cannot be adequately summarized without compromising intelligence sources; or if the matter does not warrant ATRC referral. Under these standards, the most appropriate cases for the ATRC are those involving fundraising for terrorist organizations and instances where the alien was involved in a terrorist act overseas with no U.S. nexus.⁶⁵ Since both the definition of terrorist activity and the recent Ninth Circuit decision in Arab-American weigh heavily against reaching fundraisers, the best first case thus looks like the admitted alien with strong links to terrorist acts abroad.

⁶¹ INA § 240(a)(4)(B).

⁶² Other provision of the Antiterrorism Act also facilitate the ability of Justice to deport alien terrorists, most noticeably §§ 413 and 421. § 413 makes aliens who have engaged in terrorist activities ineligible for various types of relief from forced removal. § 421 specifically makes an alien who is deportable on the basis of past terrorist activities ineligible for asylum unless the Attorney General, or her delegate, determines that there are no reasonable grounds for considering the alien a danger to national security. As amended by IIRIRA and made effective on April 1, aliens who have engaged in terrorist activities are disqualified from applying for asylum.

Note that in the case of Abu Mezer: although detained in January 1997, he did not actually file his asylum application until April 7, 1997. If Mezer were known to have engaged in terrorist activities, he would have been barred from filing the asylum application under Section 421 and been ineligible for various types of relief under Section 413.

⁶³ The most likely constitutional challenge to the ATRC will be that the statute creating it is unconstitutional on its face for failing to protect guaranteed due process rights, especially as pertains to the classified information provisions. Although 1956 Supreme Court decision in *Jay v. Boyd* held that it is constitutionally permissible for the INS to use classified information against applications for relief in deportation cases, it remains unclear whether that holding will be extended to cases where the classified information is the basis for the underlying charge that the alien is a terrorist. A conviction on that charge carries a 10 year criminal "removal" penalty if that alien attempts to enter the United States subsequent to conviction.

⁶⁴ The FBI and INS are concurrently reviewing these cases. One aspect of the FBI's review is to assess whether the ATRC candidate should not be brought before the ATRC because of that candidate's remaining intelligence value. The INS, on the other hand, is reviewing candidates for amenability for public proceedings other than the ATRC whereby deportation would take place on immigration or criminal violation grounds.

⁶⁵ Section 702 of the Antiterrorism Act broadens the federal jurisdiction over crimes by international terrorist. Jurisdiction now exists over the crime if the offender uses or facilitates use of interstate commerce; the offense interferes with interstate commerce; if the victim is a U.S. citizen or employer; or the offense takes place within U.S. territorial jurisdiction and at least part of the conduct occurs outside the United States.

The first fifty cases presented to Justice by the FBI were not accepted for ATRC filings. Justice is now considering the second set of fifty, including active FISA⁶⁶ cases.⁶⁷ So far, at least two cases initially considered for the ATRC have been redirected into traditional proceedings. In one case, the alien was charged criminally with possession of a firearm. In the second case, the alien was deported based on immigration violations.

Removals suspended: political intrusion into counterterrorism efforts.—An unfortunate example of how politics can frustrate counterterrorism efforts is the Attorney General's decision, at the request of the Secretary of State, to suspend or drop deportation proceedings against nine aliens associated with IRA terrorist activity. Six aliens had their cases suspended (five in conventional proceedings using prior criminal convictions as proof of terrorist activity, and one where classified information was to be used), while three aliens' cases were withheld from prosecution. The practical result of the Attorney General's action is that nine aliens associated with IRA activity, at least five of whom had served sentences abroad for bombings and murders, are now free to continue their activities here in the United States.⁶⁸ As one Irish news release states: "The decision sends a message that America is not just for the free but a land where terrorists go free."⁶⁹

The decision was made after Secretary of State Albright wrote a letter to the Attorney General stating that "the suspension of United States efforts to deport a small number of individuals who have engaged in activity on behalf of the IRA but who are now here in the United States could contribute to the Northern Ireland peace process." This letter was written after Sinn Fein leader Gerry Adams visited the U.S. on a fundraising tour in August. Of course, it was not explained how releasing these nine aliens would actually contribute to the peace process. In the end, valuable INS resources were wasted for a political gesture of questionable merit.

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

The INS has the primary responsibility for excluding aliens with terrorist affiliations from the United States. Therefore, the failure of the INS to articulate a counterterrorism strategy is unacceptable. The INS must do so.

INS' intelligence division is poorly structured for the implementation of counterterrorism policies and plans. Specific appropriations for the staffing of an INS Counterterrorism Intelligence Unit may be warranted. INS, considering itself a significant consumer of intelligence, is critically weak in intelligence gathering from both within its own structure and its links to the intelligence community. A potential correction of this problem would be the creation of an intelligence unit at INS headquarters with a priority assigned to counterterrorism efforts. The Unit's agents would be required to continue its existing liaison with State for border security, but should also be charged with gathering intelligence from INS domestic agents as well as INS overseas inspectors. Field agents dedicated to gathering intelligence would be required to relay information directly to headquarters. This intelligence unit could then be charged with reviewing existing IBIS and TECS II database information with its own intelligence for better overall alien information.

In addition, important intelligence gleaned during "fear of persecution" or asylum reviews needs to find its way back into the intelligence community. An intelligence retrieval process could be created which maintains the intelligence as classified, handles it judiciously, and prevents disclosure to foreign governments.

Intelligence gleaned during asylum interviews must find its way back into the intelligence community in a protected manner. As in the case of Abu Mezer, arrested for his conspiracy to bomb Brooklyn transportation sites, the only information indicating terrorist affiliation was located in his asylum application.

Considering the huge volume of traffic across U.S. borders, the development and deployment of fast and complete technologies must continue to be sought for the INS and Customs inspectors who man U.S. points of entry and made available to INS border patrol who do not have counterterrorism as a top priority, but nonetheless require access to information that would facilitate terrorist exclusion.

More specifically, the development and deployment of a national entry/exit system may still be a valuable support tool for INS counterterrorism efforts.

⁶⁶The Foreign Intelligence Surveillance Act, 50 U.S.C.A. §§1801-1811; 1821-1829. According to Justice's Violent Crime and Terrorism Section, FISA information could be incorporated into the prosecution's evidentiary package without notification to the FISA court and without the ability of the alien to challenge the information with a motion to suppress.

⁶⁷One source states that there is no second set of fifty cases. Rather, the first set of fifty cases remains in limbo.

⁶⁸See attached September 29 letter from Chairman Kyl to the Attorney General.

⁶⁹"American supports the IRA," Ian Paisley Jnl at Internet (10/9/97).

The INS must retain as a priority access to database, name check, and forensic document technology for inspectors at all points of entry. It is especially important that all points of entry have access to IBIS. Although most INS employees do recognize their important security functions, INS' prevailing emphasis continues to be on the speed and efficiency of passenger processing. This inherent conflict in primary responsibilities limits the ability of INS and Customs to implement the counterterrorism provisions of the Antiterrorism Act and exclusion and removal directives of PDD-39. The two agencies are highly dependent on technology to quickly and accurately get the necessary information to admit or refer to secondary aliens with questionable links to terrorist activities.

In addition, staffing at points of entry, though reportedly adequate, is usually tightly managed and not sufficient to meet incoming volume of persons or vehicles. Overload at the primary screening venues during peak arrival times often results in the accelerated citizen examination (ACE) procedure for U.S. citizens where only documents, not names, are checked. Also of importance is that detention space is always at a premium, often forcing agents to detain some but not all individuals who raise significant security concerns.

Mandatory manifest passenger lists should be considered. Right now, air carrier participation in the Advance Passenger Identification System (APIS) is discretionary. If INS and Customs were provided passenger lists prior to all U.S. flight arrivals, partial inspections through database searches of name and date of birth could take place in the air for all arriving passengers, thus enabling the INS to better prepare for the arrival of aliens who receive a positive hit in TECS II, especially aliens from visa waiver countries who are not subject to consular office screening. Mandatory reporting may also have the collateral benefit of easing congestion at ports of entry.

The INS must make both a policy and financial commitment to fully develop and deploy a national program to track foreign students in the manner and time frame mandated by Congress.

The visa waiver pilot program increases potential U.S. exposure to terrorists by placing all exclusion responsibility on the INS at our borders, while skipping the critical visa processing at State's overseas consular offices. The benefits of this program, as articulated by State, must be weighed against the public safety vulnerabilities of the program, as articulated by the INS.

The INS' decision to apply expedited exclusion to aliens who enter at ports of entry, but not to aliens who enter illegally, is a failure to implement the will of Congress, and disregards a tool that could be used to quickly and efficiently exclude terrorists who gain entry into the United States unlawfully simply by eluding detection at U.S. borders.

Justice's failure to submit even a single application to the Alien Terrorist Removal Court is disappointing, and, along with immigration law reforms permitting use of classified information in deportation hearings where the alien poses a national security threat, calls into question the overall utility of the court to counterterrorism efforts.

THE WASHINGTON INSTITUTE—POLICY FOCUS

OPEN ADMISSIONS: U.S. POLICY TOWARD STUDENTS FROM TERRORISM-SUPPORTING COUNTRIES IN THE MIDDLE EAST

(By Hillary Mann)

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EXECUTIVE SUMMARY

Six years after revelations emerged that Saddam Hussein sent hundreds of Iraqi students abroad to study subjects that would help Baghdad develop its nuclear weapons program, the U.S. government continues to issue visas to students from Iraq and the other Middle Eastern countries on the State Department's list of "state sponsors of terrorism"—Iran, Libya, Sudan and Syria—to study in the United States, mostly in science-related fields and probably with funding from their governments.

Current U.S. visa procedures, which are intended to exclude students from terrorism-supporting states who may be involved in terrorist activity or who come to the United States to study "dual use" subjects (i.e., those that could contribute to their countries' efforts to develop missiles and/or nuclear, chemical, or biological weapons), are weak and ambiguous. Syrian and Sudanese students are generally not subject to any special clearance procedures; Iranian undergraduates (and graduate students in all disciplines except nuclear physics and related subjects) receive only an intermediate security check, not the more extensive background check required for Iranian graduate students in the nuclear field and nearly all Iraqi and Libyan students. Only a very small number of visas have actually been denied to students from terrorism-supporting states in the Middle East.

In addition, once these students enter the United States they are not subject to any effective monitoring or tracking procedure, which means that students can declare that they are studying benign subjects such as social sciences and then concentrate on nuclear physics, chemistry, biology, and engineering without anyone in the U.S. government becoming aware of the change. Syrian and Sudanese students are also allowed to travel repeatedly outside the United States—back to their countries, to other terrorist-sponsoring states in the Middle East, or anywhere else—without having to obtain a new visa or submit to an updated security check.

Finally, the data on students from terrorism-supporting states in the Middle East is incomplete, making it difficult to determine whether they present a threat to Washington's interest in preventing international terrorism and the transfer of technology to terrorism-supporting states in the Middle East.

To respond to these deficiencies, the United States should tighten its screening procedures to require a Security Advisory Opinion (SAO), its most in-depth background check, for all students from states that sponsor terrorism, and deny entry to such students seeking to study "dual use" subjects that could contribute to their countries' development of missiles and nuclear, biological, and chemical weapons.

Second, Washington should prohibit Iran, Sudan, and Syria from transferring funds to finance their students' studies in the United States, as is already done with students from Libya. Third, the U.S. government should quickly and fully implement Immigration and Naturalization Service recommendations for better monitoring and tracking of foreign students once they are in the country.

Finally, Washington should coordinate with other nations that give student visas to applicants from terrorism-sponsoring countries in order to impede their access to weapons-related technologies as well as lessen the likelihood that potential terrorists will use a student visa to enter a third country such as Canada, as an easier route to eventual entry into the United States.

I—U.S. POLICY ON ISSUING STUDENT VISAS

The United States has long been a popular destination for students from around the world to pursue post-secondary education in fields ranging from Western philosophy to nuclear engineering. After completing their studies, most return to their home countries and—along with those who choose to remain in the United States—make positive contributions to society.

There is the potential for abuse of the U.S. student visa procedures, however, by states that sponsor international terrorism and actively seek to acquire weapons of mass destruction and missiles to deliver them. In 1991, for example, UN weapons inspectors in Iraq discovered documents detailing an Iraqi government strategy to send students abroad (including to the United States) specifically to study nuclear-

related subjects in order to develop Iraq's nonconventional weapons programs.¹ One of those students, Samir Al-Araji, received his doctorate in nuclear engineering from Michigan State University and then returned to Iraq to head its nuclear weapons program, known as Petrochemical Project III, under the auspices of the Iraqi Atomic Energy Commission.²

Similarly, at least three Iranian officials suspected of developing Tehran's nuclear program also reportedly studied in the United States: Reza Amrollahi studied electrical engineering at the University of Texas,³ Mahdi Chamran studied nuclear physics at the University of California at Berkeley,⁴ and Kazem Khabir studied nuclear engineering at the University of Oklahoma.⁵ Libya also reportedly sent students to study abroad, including to the United States, in order to develop Tripoli's weapons programs.⁶

Indeed, the presence of students from Middle East state-sponsors of terrorism in weapons-related scientific fields may be a useful indicator of their countries' weapons development plans and/or the status of those programs.⁷ Yet more than six years after these revelations about Iraq's strategy, thousands of students from Iraq and other countries in the Middle East that the State Department has designated "state sponsors of terrorism"—Iran, Libya, Sudan and Syria—are still studying in the United States, mostly in science-related fields and some probably with funding from their governments.⁸

STUDENT VISA APPLICATION PROCEDURES

Students enter the United States by filing out visa applications that include their name, the name of the school they will be attending, their intended area of study, and certification from their school that they have sufficient funding to cover their stay in the United States.⁹ Syrian students submit the applications to the U.S. embassy in Damascus; because there is no functioning U.S. embassy in Iran, Iraq, Libya, and Sudan, students from these states must apply to U.S. embassies in other countries.

The State Department conducts a routine check of all visa applicants to see if the person has a criminal record or appears on the "alert list" of known terrorists. After this initial screening, security checks on students from each of the terrorist-sponsoring states differ according to their country of origin. Based on State Department visa issuance procedures, consular officers in U.S. embassies overseas decide which visa application from students from terrorist-sponsoring states should also be referenced back to Washington for more extensive name and background checks.

These processes are coordinated by an office of the State Department's Bureau of Consular Affairs. The first, known as "Visa Eagle," involves checking several additional U.S. government data bases for the applicant's name and information about the student's background that may connect them to terrorist activity or nuclear research and development. The other, known as "Visa Donkey," involves checking even more data bases and the preparation of a Security Advisory Opinion (SAO) on

¹ David Kay, "Denial and Deception Practices of WMD Proliferators: Iraq and Beyond," *Washington Quarterly* 18, no. 1 (Winter 1995); "Saddam's Nuclear Weapons Dream: A Lingering Nightmare," *Washington Post*, October 13, 1991, p. A1.

² David Kay, "Iraqi Inspections: Lessons Learned," *Eye on Supply* 8 (Winter 1995), p. 88.

³ "Iran Plans a Vast Nuclear Build-Up," *International Herald Tribune*, May 15, 1998; "Iran Defends Its Pursuit of Nuclear Technology," *Christian Science Monitor*, February 18, 1993, p. 7.

⁴ "Iran: Prague, Gateway to the West," *Intelligence Newsletter*, September 2, 1993; "Thinking the Unthinkable About Iran," *Jerusalem Post*, April 23, 1992.

⁵ "Tehran Grants a Glimpse of a Nuclear Site Reborn," *International Herald Tribune*, May 20, 1995.

⁶ "Qaddafi's Great Aim for Libya is a Nuclear Capability of Its Own," *Christian Science Monitor*, November 12, 1980, p. 14. One such student, Haidar Barbouti, came to the United States in the late 1980s on a student visa to study liberal arts at Columbia University. While in the United States, he allegedly coordinated Libya's purchase of "dual use" military technology and chemical compounds. In addition, U.S. officials have named Barbouti's father Ihsan as the primary contractor for Libya's Rabta chemical weapons plant; see "Arms Probe Shifts to Dealer's Son," *Newsday*, April 21, 1991, p. 24. See also "Barbouti's Son Found Liable in Technology Theft Scheme," *Houston Chronicle*, March 6, 1992, p. A23.

⁷ Marvin M. Miller, "The Proliferation Implications of the Education and Training of Foreign Nationals in Discipline Relevant to Weapons of Mass Destruction" (unpublished paper prepared for the Defense and Arms Control Studies Program, Department of Nuclear Engineering, Massachusetts Institute of Technology, March 1997).

⁸ Although much of the data in this study is from public sources, some of the information is the product of numerous "off the record" conversations and interviews with officials from the various U.S. government agencies responsible for immigration and counterterrorism issues. Their identities remain confidential.

⁹ See appendix.

whether the prospective student has any known connections to terrorist activity, espionage, or his or her country's nuclear program. Neither of these more extensive security checks considers the prospective students' ties to their countries' chemical or biological weapons programs, however. Based on these name and background checks—and information from other sources (including U.S. intelligence agencies)—the State Department informs the consular officer whether to issue a student visa.

The security checks require for students from terrorism-sponsoring countries in the Middle East to obtain a visa to study in the United States range from extensive (Libya) to non-existent (Syria). The requirements are summarized below:

- Libyan students seeking to study in the United States are subject to the most extensive security checks of any of the Middle East state-sponsors of terrorism. An SAO is required for all Libyan passport holders, persons born in Libya of Libyan fathers, and third-country nationals living or who have lived in Libya for two years or more since 1981, regardless of their current place of residence.¹⁰ For visa applications indicating an intention to study certain nuclear-related "sensitive technologies" (but not chemical or biological ones), the SAO includes the applicant's "field of expertise, educational background, professional employment history, focus and nature of past and present study and research, detailed description of the proposed study or research program in the U.S., and sponsoring institution."¹¹

- Iraqi students require an SAO, but there are no additional requirements regarding "certain sensitive technologies."¹² Students from Iraq traveling on other passports, however, may be able to evade the SAO.

- Iranian students require an SAO if they intend graduate-level study in the nuclear field, but not for graduate-level study in any other field, including those which may be related to chemical or biological weapons programs. SAOs are also not required at all for Iranian undergraduates, even if they plan to study in the nuclear field.¹³ As with Iraqi students, Iranian students holding other passports may be able to evade the more in-depth SAO background check.

Although all applications from Iranian students require a Visa Eagle check,¹⁴ there is a significant loophole in the process. After requesting the Visa Eagle, U.S. consular officers are instructed to wait thirty days for a reply from the State Department. If there is no reply within this time, standard procedures require the consular officer to issue a visa. Although this procedure saves the State Department the trouble of responding in cases in which no security problems are found, it creates the possibility of wrongfully issuing a visa in cases in which links to terrorism are found *after* the thirty day period—for example, if there is a delay in the transmission of the Visa Eagle request, if the request is lost or stolen, or if the State Department is simply slow to respond.

- Sudanese students are not subject to any special security clearance procedures unless they are a government official or member of the armed forces—to whom Washington generally denies visas.¹⁵

- Syrian students are unique among applicants from state-sponsors of terrorism in that they are not subject to *any* security clearance procedures, regardless of the prospective student's course of study (e.g., nuclear physics) or source of funding (e.g., government funds).¹⁶

VISA DENIALS AND APPEALS

Despite these security procedures, few non-immigrant visa applicants are denied entry into the United States because of concerns about terrorism or technology transfer (see table below).

NON-IMMIGRANT VISAS ISSUED, DENIED, AND REVERSED, 1992–96 ¹⁷

	1992	1993	1994	1995	1996
Non-immigrant visas issued	5,368,437	5,359,620	5,610,953	6,181,822	6,237,870
Visas denied due to terrorism concerns	28	73	38	79	41
Visas denied due to technology concerns	28	10	24	6	11
Terrorism denials appealed and reversed	15	40	8	24	8
Technology denials appealed and reversed	3	4	4	0	1

¹⁰ U.S. Department of State, *Foreign Affairs Manual*, vol. 9, part IV, September 2, 1996.

¹¹ *Ibid.*, August 1, 1994.

¹² *Ibid.*

¹³ *Ibid.*, May 2, 1997.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*, February 16, 1996.

NON-IMMIGRANT VISAS ISSUED, DENIED, AND REVERSED, 1992-96 ¹⁷—Continued

	1992	1993	1994	1995	1996
Total denials appealed and reversed	54%	53%	19%	28%	17%

¹⁷ Ibid., 1992, 1993, 1994, 1995, 1996.

Moreover, a significant percentage of those initially denied entry due to concerns about terrorist activity and illegal technology transfer have been able to appeal these decisions to the State Department and ultimately receive visas. Although data on the exact number of student visas denied to nationals of terrorist-sponsoring states are not available, the table below shows the number of non-immigrant visas (of which student visas are the second largest of nineteen categories) denied on those bases.

Even these data, however, may not accurately reflect the exact numbers. The number of refusals may be overstated, for example, because a single applicant can re-apply and be refused more than once a year; the number of denials reversed may be understated because some embassies' automated visa systems do not keep data on visa denials reversed.

II—MONITORING FOREIGN STUDENTS IN THE UNITED STATES

Until recently, the U.S. government did not attempt to monitor the activities of foreign students—including what they study, where they study, and who finances their studies—once they had entered the United States. According to the INS, it does not even have an effective system for keeping track of foreign students' current addresses. Indeed, a task force report on foreign students, drafted by the INS in response to concerns within the federal law enforcement community¹ about how the 1993 World Trade Center bombers were allowed to enter the United States, declared: "At present, foreign students in the United States are not subject to continuing scrutiny, tracking, or monitoring when they depart, drop out, transfer, interrupt their education, violate [their visa] status, or otherwise violate the law."²

This means, for example, that a student from a terrorism-sponsoring state in the Middle East could apply to study business administration at one school and then transfer to a nuclear engineering program at another school without anyone in the U.S. government necessarily knowing about it—thereby circumventing current visa screening procedures specifically intended to impede access to sensitive U.S. technologies.

In the wake of the World Trade Center bombing and the INS task force report indicating that foreign students in the United States were not subject to any kind of effective tracking or monitoring, in late 1996 the U.S. Congress passed Public Law 104-208 (Subtitle D, Section 641), which authorized a pilot program to determine the practicality of collecting data electronically on foreign students in the United States. The program began in June 1997 and covers approximately 10,000 (or about .02 percent) of the estimated 500,000 foreign students currently in the United States. Although the results of this limited program remain to be seen (a report on its results is scheduled for submission to Congress by 2001), it represents the first real step to address the government's inability to track or monitor foreign students, including those from terrorism-supporting states in the Middle East.

NUMBERS OF FOREIGN STUDENTS

Although the State Department maintains statistics on the number of student visas issued annually, the U.S. government has not kept track of the exact number of foreign students—including those from terrorist-sponsoring states in the Middle East—in the country at any given time. Some may quit their studies and leave the country, others may quit but remain in the country, and still others may complete their studies and remain in the country after their visas expire. Reliable estimates put the number of foreign students in the United States at more than 500,000. State Department records indicate that 9,767 visas have been issued to students from state-sponsors of terrorism since the 1991 Gulf War (see table on following page).

¹ See Appendix C.

² INS, "Controls Governing Foreign Students and Schools That Admit Them," Final Report by the Task Force on Foreign Student Controls, December 22, 1995, p. 1-1.

STUDENT VISAS ISSUED, 1991-96³

	1991	1992	1993	1994	1995	1996	Total
Iran	955	948	835	797	736	518	4,789
Iraq	45	102	84	96	82	58	467
Libya	29	15	20	18	10	14	104
Sudan	302	293	226	193	199	191	1,404
Syria	739	640	488	381	412	343	3,003
Total	2,070	1,998	1,653	1,485	1,439	1,124	9,767

³ U.S. Department of State, Bureau of Consular Affairs, "Report of the Visa Office," 1991-96.

In addition, the U.S. Immigration and Naturalization Service (INS) keeps figures on how many "student admittances"—entering the country with a student visa—occur each year. The INS statistics (see table below) indicate that there were 8,492 "student admittances" from terrorist-supporting states in the Middle East since the Gulf War. Depending on the terms of the visa, some students can enter several times on the same visa, as in the case of Syrian and Sudanese students. Whereas Syrian students generally receive multiple-entry visas valid for two years, Sudanese students' multiple-entry visas are valid for only six months. Libyan, Iraqi, and Iranian students must obtain a new visa before each entry into the United States. These figures do not differentiate between students coming directly from their home countries and those who are long-term residents of third countries. The State Department and the INS were unable to explain the discrepancy between the number of students from terrorist-sponsoring states actually admitted to the United States and those provided with student visas, or the sharp increase in the number of students admitted from Libya, Syria, and Sudan between 1994 and 1995.

STUDENT ADMITTANCES TO THE UNITED STATES, 1991-96⁴

	1991	1992	1993	1994	1995	1996	Total
Iran	709	624	534	600	522	405	3,394
Iraq	51	72	50	72	49	42	336
Libya	19	8	12	12	64	13	128
Sudan	231	218	145	165	944	174	1,878
Syria	560	373	370	384	823	341	2,856
Total	1,570	1,295	1,111	1,233	2,407	975	8,592

⁴ Data compiled from interviews with Immigration and Naturalization Service (INS) official, Office of Policy and Planning/Demographic Statistics, January, March, and July 1997.

WHAT FOREIGN STUDENTS STUDY AND WHO FUNDS THEM

The Institute of International Education (IIE), a private organization that receives federal funding for administering certain student exchange programs, compiles data on foreign students—including what they study and who funds them—by surveying students at educational institutions across the United States. Only about 60 percent of these institutions respond to IIE's surveys, however (exceptions include such major universities as Harvard and Stanford), and only an estimated 50 percent of all foreign students provide the needed information. In addition, there are no effective checks to ensure that students supply truthful information. Nevertheless, the data compiled by the IIE provides at least a partial picture of foreign students not available elsewhere.

In brief, the most recent IIE data (see tables below) indicate that the vast majority of students from terrorism-sponsoring states in the Middle East who responded to the survey report that they are studying in science-related fields (such as engineering, physical and computer sciences, and mathematics), with a plurality studying some form of engineering.

DECLARED AREAS OF STUDY FOR STUDENTS FROM TERRORISM-SPONSORING STATES, 1995-96⁵

[In percent]

Areas of Study	Iran	Iraq	Libya	Sudan	Syria
Science (total)	71.9	65	47.5	53.9	68.5
—Engineering	30.8	34	21.1	24.6	30.6
—Physical and Life Sciences	17.1	8	5.3	12.3	7.6
—Health Sciences	13.9	15	5.3	6.6	19.1
—Math and Computer Science	8.8	6	15.8	7.1	10.2
—Agriculture	1.3	2	0	3.3	1
Undeclared	6.3	6	5.3	6.2	2.2
Other	4.9	9	10.5	5.7	7
Social Science	4.8	4	10.5	12.3	1.9
Fine Arts	1.7	2	0	3.3	2.5
Business	7.1	7	26.3	12.3	10.8
Humanities	1.1	5	0	1.9	3.8
Intensive English	1.2	0	0	0.9	1.6
Education	1	2	0	3.3	1.6

⁵ Table based on data supplied to author from 1995 and 1996 IIE surveys of 1,937 students from terrorism-sponsoring states in the Middle East.

In addition, a significant percentage of respondents reported receiving funding from "non-family sources" (see table below) which, in countries with authoritarian regimes and strictly controlled economies such as those in the Middle East, probably means the student's government or government-funded institutions. Moreover, because money is fungible and its ultimate source easily disguised, there is no way to determine whether students who declared their source of funding as "personal/family" did not receive full or at least partial financing from their governments. The number of students in the latter category may be higher than reported.

DECLARED SOURCES OF FUNDING FOR STUDENTS FROM TERRORISM-SPONSORING STATES, 1995-96⁶

[In percent]

Source	Iran	Iraq	Libya	Sudan	Syria
Personal/Family	71.2	57.9	100	66.3	80
U.S. sponsor	24.2	31.6		18	15
Non-U.S. sponsor (probably own government)	4.6	10.5		15.7	5

⁶ Ibid.

The fact that none of the Libyan students surveyed by IIE reported funding from a non-family sponsor may be due to U.S. legal restrictions that prohibit the Libyan government from transferring funds to any person in the United States. The same legal restrictions apply to Iraqi government funds, however, and yet some Iraqi students reported receiving funds from a non-U.S. sponsor, which was most likely the Iraqi government or a government-funded institution.⁷ By contrast, Iran, Sudan, and Syria are permitted to transfer funds into the United States.⁸

⁷ See Libyan Sanctions Regulations, 31 CFR Ch. V, Part 550, Subpart B, Section 550-209, July 1, 1996; and Iraqi Sanctions Regulations, 31 CFR Ch. V, Part 575, Subpart B, Section 575.201, July 1, 1996.

⁸ See Terrorism List Governments Sanctions Regulations; Authorization for Government Stipends and Scholarships for Students, 31 CFR Part 596, 61 FR 67943, Fed. Reg., vol. 61, no. 249, December 26, 1996. See also Iranian Transactions Regulations, 31 CFR, Ch. V, Part 560, Subpart B, Section 560.201 and 560.206. These regulations do not explicitly prohibit the Iranian government from transferring funds to Iranian students in the United States.

¹ "Torture Tales in Bomb Case Are Challenged," *New York Times*, August 8, 1997.

² "Dr. Germ: One of the world's Most Dangerous Women," *Los Angeles Times*, November 7, 1995, p. E6; "Head of Saddam's Germ Warfare Project Profiled," *al-Sharq al-Awsat*, January 29, 1995, p. 2, in FBIS-NES 95-025, February 7, 1995, p. 48.

Newly codified immigration law also seems to diminish the need for the ATRC. After the enactment of the Antiterrorism Act in April of 1996, IIRIRA became law, codifying procedures for the deportation of aliens based on classified information.⁵⁷

III—CONCLUSIONS AND POLICY RECOMMENDATIONS

Allowing foreign students, including those from the Middle East, to study in the United States is generally in the U.S. interest. These students usually return home with an appreciation for the openness of American society and contribute to the development of their respective homelands. The overwhelming majority of foreign students are neither terrorists nor nuclear bombmakers.

The current U.S. procedures for issuing student visas and tracking students once they are in the country, however, are amorphous, weak, and ripe for abuse. Over the past five years, thousands of students have entered the United States from countries in the Middle East that the United States has officially designated as sponsors of international terrorism. Yet, at any given time, the U.S. government does not know exactly how many of these students are in the country, where they are, what school they are attending, what they are studying, and who finances their studies. By their own admission, a majority of students from terrorist-sponsoring states in the Middle East are studying science-related fields, and some probably are being funded by their governments. The United States should be concerned that students from terrorist-sponsoring states in the Middle East have relatively easy access to U.S. scientific information that can be used to help their countries develop weapons of mass destruction and missiles to deliver them.

The United States is not the only country, however, that attracts such students. Ghazi Ibrahim Abu Maizar, one of those arrested in New York in August 1997 for allegedly planning suicide bombings, reportedly slipped into the United States after entering Canada on a student visa.¹ Moreover, Rihab Taha and Jafar Diya Jafar, two of the principal participants in Iraq's weapons of mass destruction programs, received doctorates in Great Britain.²

Although restricting the flow of foreign students to the United States would be unseemly for an open, democratic society, it would be equally foolhardy to ignore the risk that identified state sponsors of terrorism may use weak student visa procedures as a means of entering the United States and acquiring technologies that would otherwise be prohibited to them by export-control laws. Moreover, failing to deal with the small number of states that sponsor terrorism subjects the much greater number of students from other Middle Eastern states to unfair suspicion.

POLICY RECOMMENDATIONS

To address these problems, the U.S. government should:

- Require that the most in-depth background check, known as the Visa Donkey security advisory opinion (SAO), be conducted for all students coming to the United States from the states designated as sponsors of terrorism—Iran, Iraq, Libya, Sudan, and Syria. Students from these countries should be denied entry to study nuclear engineering (as is already the case with all Libyan students and Iranian graduate students) or subjects that could contribute to their countries' missile or chemical and biological weapons programs.
- Prohibit the governments of Iran, Sudan, and Syria from financing their students' studies in the United States, as is already done with the government of Libya.
- Quickly and fully implement the recommendations of the INS task force to improve monitoring of foreign students in the United States. An INS pilot program to obtain and maintain data on foreign students in the United States, implemented in June 1997 and covering approximately .02 percent of the foreign student population in the United States, is an important start, but it needs to be expanded as quickly as possible.
- Coordinate with other countries that attract students from state-sponsors of terrorism to impede their access to weapons-related technologies and decrease the likelihood that potential terrorist will use student visas into a third country, such as Canada, as an easier route to eventual entry into the United States.

¹"Torture Tales in Bomb Case Are Challenged," *New York Times*, August 8, 1997.

²"Dr. Germ: One of the world's Most Dangerous Women," *Los Angeles Times*, November 7, 1995, p. E6; "Head of Saddam's Germ Warfare Project Profiled," *al-Sharq al-Awsat*, January 29, 1995, p. 2, in FBIS-NES 95-025, February 7, 1995, p. 48.

APPENDICES

APPENDIX A

Certificate of Eligibility for Non-Immigrant (F-1) Student Status¹

This page must be completed and signed in the U.S. by a designated school official.

1. Family Name (surname) _____ First (given) name (do not enter middle name) _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%;">Country of birth _____</td> <td style="width: 65%;">Date of birth (mo./day/year) _____</td> </tr> <tr> <td>Country of citizenship _____</td> <td>Admission number (Complete if known) _____</td> </tr> </table> 2. School (school district) name _____ School official to be notified of student's arrival in U.S. (Name and Title) _____ School address (include zip code) _____ School code (including 3-digit suffix, if any) and approval date _____ _____ 214F _____ approved on _____	Country of birth _____	Date of birth (mo./day/year) _____	Country of citizenship _____	Admission number (Complete if known) _____	For Immigration Official Use <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Visa issuing post _____</td> <td style="width: 50%;">Date Visa issued _____</td> </tr> <tr> <td colspan="2">Reinstated, extension granted to: _____</td> </tr> </table>	Visa issuing post _____	Date Visa issued _____	Reinstated, extension granted to: _____	
Country of birth _____	Date of birth (mo./day/year) _____								
Country of citizenship _____	Admission number (Complete if known) _____								
Visa issuing post _____	Date Visa issued _____								
Reinstated, extension granted to: _____									

3. This certificate is issued to the student named above for:
 (Check and fill out as appropriate)

a. ☐ Initial attendance at this school.

b. ☐ Continued attendance at this school.

c. ☐ School transfer.

Transferred from _____

d. ☐ Use by dependents for entering the United States.

e. ☐ Other _____

7. This school estimates the student's average costs for an academic term of _____ (up to 12) months to be:

a. Tuition and fees \$ _____

b. Living expenses \$ _____

c. Expenses of dependents \$ _____

d. Other (specify): \$ _____

Total \$ _____

4. Level of education the student is pursuing or will pursue in the United States (check only one):

a. ☐ Primary f. ☐ Master's

b. ☐ Secondary g. ☐ Doctorate

c. ☐ Associate h. ☐ Language training

d. ☐ Bachelor's i. ☐ Other _____

8. This school has information showing the following as the student's means of support, estimated for an academic term of _____ months (Use the same number of months given in item 7):

a. Student's personal funds \$ _____

b. Funds from this school (specify type) \$ _____

c. Funds from another source (specify type and source) \$ _____

d. On-campus employment (if any) \$ _____

Total \$ _____

5. The student named above has been accepted for a full course of study at this school, majoring in _____

The student is expected to report to the school not later than (date) _____ and complete studies not later than (date) _____

The normal length of study is _____

6. ☐ English proficiency is required:

☐ The student has the required English proficiency.

☐ The student is not yet proficient. English instructions will be given at the school.

☐ English proficiency is not required because _____

10. School Certification: I certify under penalty of perjury that all information provided above in items 1 through 8 was completed before I signed this form and is true and correct. I executed this form in the United States after review and evaluation in the United States by me or other officials of the school of the student's application, transcripts or other records of courses taken and proof of financial responsibility, which were received at the school prior to the execution of this form. The school has determined that the above named student's qualifications meet all standards for admission to the school. The student will be required to pursue a full course of study as defined by 8 CFR 214.2(b)(4). I am a designated official of the above named school and I am authorized to issue this form.

Signature of designated school official _____ Name of school official (print or type) _____ Title _____ Date issued _____ Place issued (city and state) _____

11. Student Certification: I have read and agree to comply with the terms and conditions of my admission and those of any extension of stay as specified on page 2. I certify that all information provided on this form refers specifically to me and is true and correct to the best of my knowledge. I certify that I seek to enter or remain in the United States temporarily and solely for the purpose of pursuing a full course of study at the school named on Page 1 of this form. I also authorize the named school to release any information from my records which is needed by the DHS pursuant to 8 CFR 214.3(g) to determine my nonimmigrant status.

Signature of student _____ Name of student _____ Date _____

Signature of parent or guardian of student under 18 _____ Name of parent/guardian (Print or type) _____ Address (city) _____ (State or province) _____ (Country) _____ (Date) _____

¹ U.S. Department of Justice, Immigration and Naturalization Service, Form I-20 A-8/1-201D (Rev 04-27-88)N.

APPENDIX B.—LEGAL AUTHORITY FOR DENYING VISAS TO PROSPECTIVE STUDENTS¹

TITLE 8. ALIENS AND NATIONALITY

CHAPTER 12. IMMIGRATION AND NATIONALITY IMMIGRATION ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

8 USCS @ 1182 (1997)

*Excludable Aliens**INA 212(a)(3) Security and Related Grounds*

(A) IN GENERAL. Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

- (i) any activity
 - (I) to violate any law of the United States relating to espionage or sabotage or
 - (II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information.
- (ii) any other unlawful activity, or
- (iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means, is inadmissible.

(B) TERRORIST ACTIVITIES.

- (i) IN GENERAL. Any alien who—
 - (I) has engaged in a terrorist activity,
 - (II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely to engage in any terrorist activity (as defined in clause iii),
 - (III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity,
 - (IV) is a representative (as defined in clause iv) of a foreign terrorist organization, as designated by the Secretary [of State] under section 219 [8 USCS @ 1189], or
 - (V) is a member of a foreign terrorist organization, as designated by the Secretary under section 219 [8 USCS @ 1189], which the alien knows or should have known is a terrorist organization is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

(ii) TERRORIST ACTIVITY DEFINED. As used in this Act, the term “terrorist activity” means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

- (I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).
- (II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.
- (III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of Title 18, United States Code) or upon the liberty of such a person.
- (IV) An assassination.
- (V) The use of any—
 - (a) biological agent, chemical agent, or nuclear weapon or device, or
 - (b) explosive or firearm (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iii) ENGAGE IN A TERRORIST ACTIVITY DEFINED. As used in this Act, the term “engage in terrorist activity” means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

- (I) The preparation or planning of a terrorist activity.

¹ Title 8 of the U.S. Code gives the government the legal authority to deny visas to prospective students who may be involved in terrorist activities or who may seek to illegally acquire non-conventional weapons technology.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

(iv) **REPRESENTATIVE DEFINED.** As used in this paragraph, the term "representative" includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

APPENDIX C.—FBI DIRECTOR'S MEMORANDUM ON LOOPHOLES IN THE U.S. VISA SYSTEM¹

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF INVESTIGATIVE AGENCY POLICIES,
Washington, DC, September 26, 1994.

MEMORANDUM

To: Jamie S. Gorelick, Deputy Attorney General
From: Louis J. Freeh, Director, Office of Investigative Agency Policies

At your request, the Office of Investigative Agency Policies ("OIAP") has considered "Current procedures, policies and practices relating to aliens' entry into and departure from the United States," and addressed ways "to improve the Department's law enforcement capabilities in these areas." In making this request, you noted the participation of aliens in two heinous crimes: the World Trade Center bombing and the killings outside of the Central Intelligence Agency headquarters.

After consulting with the members of the OIAP's Executive Advisory Board ("EAB"),² I make the recommendations contained herein. The recommendations, if fully implemented, would require an infusion of funds and personnel.

Visa applications

The members of the EAB stressed the need for coordination and cooperation in determining whether the United States Government should issue a visa to an alien. In this regard, it was noted that, when agencies provide information to the State Department which suggests that a visa should not be issued, the State Department should not specify the reason for the visa's denial. Such information often results from criminal investigations and, thus, its disclosure could jeopardize them. Accordingly, the EAB recommends, and I endorse, the establishment of a uniform system for the State Department's communication of visa denials.

The members of the EAB also expressed concern about the Visa Waiver Pilot Program, which the United States Government employs with a growing number of countries. Criminals and terrorists can use that program to their advantage. For example, although an undesirable alien may be a citizen of Country A (a country that does not participate in the Visa Waiver Pilot Program), he obtains false documents demonstrating his citizenship in Country B (a partner of the United States in the Visa Waiver Pilot Program). Such false documents avert the necessity of his procuring a visa to enter the United States, thereby avoiding any overseas State Department scrutiny of his right to enter. Failure to allow that overseas scrutiny shrinks the United States Government's "window of opportunity" to exclude or detain that person from a few weeks to just a few hours.

I recognize the foreign policy and political implications of United States participation in the Visa Waiver Pilot Program. Nevertheless, in view of the competing law enforcement interests described herein, I recommend careful review of any expansion of United States participation in the Visa Waiver Pilot Program.

¹ In this memorandum, FBI Director Louis J. Freeh outlined several concerns regarding the potential use by terrorists of loopholes in the U.S. visa system to gain entry into the United States. In particular, Freeh cited the need to subject foreign students to thorough and continuing scrutiny both prior to and during their stay in the United States. Subsequent footnotes in the memo are from the original.

² The EAB consists of representatives from the Drug Enforcement Administration (DEA), United States Marshals Service (USMS), Immigration and Naturalization Service (INS), Federal Bureau of Investigation (FBI), and the Department of Justice's Criminal division.

The Immigration and Naturalization Service ("INS") has established a pre-inspection program that currently is used in a handful of countries. The goals of that program include preventing "bottlenecks" at busy United States airports, as well as preventing the entry of undesirable aliens, especially international terrorists and criminals. Aliens have fewer rights in foreign countries than they have once they have entered the United States. Thus, a thorough law enforcement program, such as a vigorous employment of the INS pre-inspection program, can be a valuable tool for preventing the entry of undesirable aliens into the United States.³ Expansion of the INS pre-inspection program should be explored.

Immigration issues in the United States

The members of the EAB also made several suggestions concerning procedures and policies relating to aliens present in the United States.

United States Government agencies cannot presently use protected or classified information—including sensitive technical and human source information—in deportation or other proceedings against aliens, because there are no adequate means to protect that information under existing law. Disclosure of the information could compromise ongoing investigations. There is, therefore, a need to establish a mechanism for in camera, ex parte proceedings relating to the use of protected or classified information in alien proceedings.⁴

A related problem involves deportation appeal procedures. Those procedures often delay deportation for many years, thereby defeating the goal of expeditiously removing undesirable aliens. Failure to remove them swiftly from the United States simply exposes our country to needless risks.

Aliens coming to the United States to engage in illegal conduct know that one of the easiest ways to enter and remain in the country is by requesting asylum. Such a person entering the United States today either is asked to post a small appearance bond or released into the United States on his own recognizance, and instructed to appear for an immigration hearing at a future date. Any legal procedures devised to address such aliens will fail unless they include provisions for the detention and removal of the alien. At present, too many of these aliens simply blend into American society and never return for their immigration hearing.

Two other categories of aliens require additional scrutiny: those who enter on student visas and do not abide by their terms; and, those who enter the United States and thereafter engage in "sham marriages" with American citizens or permanent resident aliens in order to attain permanent resident status themselves. Aliens seeking to avail themselves of these immigration privileges should undergo thorough scrutiny at the outset, as well as some form of continuing scrutiny.⁵ In the case of student visas, such follow-up investigation would include reviewing the alien's academic records.

Investigative tools

The EAB also assessed the need for various tools that can be used to investigate alien activities in the United States. At present, some portions of an alien's INS asylum file are not available to other law enforcement agencies. For example, the FBI has noted that, in terrorist investigations, those unavailable portions of an alien's asylum file could prove invaluable. Indeed, those portions could provide sufficient leads to prevent the commission of further terrorist acts or crimes. Thus, in certain instances, full or expanded disclosure of the contents of an alien's asylum file should be considered.

I also note that the Foreign Intelligence Surveillance Act does not provide for "roving authority" to intercept communications.⁶ Such authority would enhance the FBI's ability to investigate aliens' terrorist activities in the United States.

I am available to discuss this matter at your convenience.

³In those instances in which a suspicious alien's is not blocked in the foreign country, the pre-inspection program allows American law enforcement to use the alien's flight time to the United States to conduct any additional investigation which could prevent his entry.

⁴I urge reconsideration of the "Terrorist Alien Removal" legislation that the Department of Justice has drafted previously. The core concept of this legislation creates a special court to conduct "special removal hearings" directed, against aliens in the United States who engaged in international terrorist activities. At the hearing, the court would conduct an in camera, ex parte review of certain types of sensitive, classified information.

⁵Obviously, the intent is not to harass an alien who lawfully opts either to study in this country or to marry an American. Instead, the intent is to ascertain which aliens are using these avenues as a means to remain in this country indefinitely in order to engage in unlawful conduct. I recognize that certain legitimate privacy interests are implicated.

⁶The requirements for such authority in criminal investigations are set forth at Title 18, United States Code, Section 2518 (11).

APPENDIX D.—CONCLUSIONS OF THE INS TASK FORCE ON FOREIGN STUDENT CONTROLS¹

The following conclusions were reached by the task force:

At present, foreign students in the U.S. are not subject to continuing scrutiny, tracking, or monitoring when they depart, drop out, transfer, interrupt their education, violate status, or otherwise violate the law. Schools are not required to notify INS regarding such key elements of student events.

Presently there is no effective system or process for reporting or maintaining current addresses of foreign students in the U.S.

Weak and ineffective data system or process for reporting or maintaining current addresses of foreign students in the U.S. where the INS has authority and responsibility. These are: Admission of a foreign student at port of entry (POE) to the United States; upon change of status to student; and upon application of associated benefits.

There is no inter-agency data system access between INS, DOS, and USIA in the current process.

The current change of status process for aliens within the U.S. fails to apply effective scrutiny relative to granting of student status.

The current system does not use biometric identifiers to verify true identity of foreign students.

The Student/School data system does not provide all the information needed to effectively monitor and regulate students and schools, and also is not linked to other related INS data systems.

The INS has no system in place to monitor or audit schools.

APPENDIX E.—AUTHORIZATION FOR A PILOT PROGRAM TO MONITOR FOREIGN STUDENTS¹

Omnibus Appropriations Act, 1997—P.L. 104-208

SUBTITLE D—OTHER PROVISIONS

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NON-IMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS

(a) IN GENERAL.

(1) PROGRAM. The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education and designated exchange visitor programs in the United States the information described in subsection (c) with respect to aliens who—

(A) have the status, or are applying for the status, or nonimmigrants under subparagraphs (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) are nationals of the countries designated under subsection (b).

(2) DEADLINE. The program shall commence not later than January 1, 1998.

(c) INFORMATION TO BE COLLECTED.

(1) IN GENERAL. The information for collection under subsection (a) with respect to an alien consists of—

(A) the identity and current address in the United States of the alien;

(B) the nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;

(C) in the case of a student at an approved institution of higher education, the current academic status of the alien, including whether the alien is maintaining status as a full-time student, or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program; and

¹U.S. Immigration and Naturalization Service, "Controls Governing Foreign Students and Schools That Admit Them," Final Report by the Task Force on Foreign Student Controls, 1995. The INS convened the task force in response to FBI Director Freeh's 1994 memorandum (see Appendix B). This is a partial list of the report's principal conclusions.

²This recently enacted legislation authorizes a pilot program to determine the feasibility of monitoring foreign students in the United States.

(D) in the case of a student at an approved institution of higher education, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime.

(2) FERPA. The Family Education Rights and Privacy Act of 1974 shall not apply to aliens described in subsection (a) to the extent that the Attorney General determined necessary to carry out the program under subsection (a).

(3) ELECTRONIC COLLECTION. The information described in paragraph (1) shall be collected electronically, where practicable. * * *

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS.

(1) CONDITION. The information described in subsection (c) shall be provided by as a condition of—

(A) in the case of an approved institution of higher education, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) in the case of an approved institution of higher education or a designated exchange visitor program, the granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) EFFECT AND FAILURE TO PROVIDE INFORMATION. If an approved institution of higher education or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied. * * *

(f) JOINT REPORT. Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries. * * *

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PREPARED STATEMENT OF THE UNITED STATES CUSTOMS SERVICE

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity for the United States Customs Service to submit a statement for the record on the subject of foreign terrorism in America, and the role the Customs Service plays in combating this threat.

As the primary border interdiction agency at U.S. ports of entry, the Customs Service is involved in several initiatives to combat foreign terrorism in the United States, as well as deter the export of weapons, chemicals, and technology to foreign terrorist groups and their sponsor nations. These initiatives demonstrate the commitment of the Customs Service to protecting our ports and borders against terrorist activity. As the Subcommittee is already aware, terrorist activity includes more than attacks. It is clear that terrorist groups also conduct recruiting, fund raising, and material procurement in and from the United States. As described more fully below, the Customs Service works to better limit terrorists' ability to operate freely across our borders.

Under the 1996 Omnibus Appropriation, the Customs Service received \$62.3 million, which included positions, examination equipment and an automated targeting system to support antiterrorism efforts at major U.S. international airports and combat terrorist activities. The Customs Service has provided the largest international airports with resources to increase aviation safety, and security against acts of terrorism. Inspector positions have been assigned to outbound teams with the responsibility of supporting aviation security/antiterrorism efforts at the highest threat locations. Customs special agents have been assigned to support outbound inspections and concurrent aviation security efforts. These agents are working with FBI-sponsored Joint Terrorism Task Forces and other agencies to assist in terrorism-related investigations which may involve a Customs violation. All newly assigned inspectors and agents will receive Antiterrorism/Aviation Safety and Security training at the Federal Law Enforcement Training Center this spring.

To support efforts to screen baggage and cargo, \$35.0 million was specifically appropriated to purchase equipment. Planned use of this funding includes: Mobile x-ray vans with explosive and radiation detection technology for the inspection of baggage and small cargo; tool trucks that supply the necessary tools for the effective and efficient examination of air cargo; mail x-ray systems that screen mail and courier parcels for bombs and explosives; mail particle detectors that can detect explosive particles; and radiation pagers to address the threat of nuclear terrorism, proliferation, and smuggling. This equipment is currently being delivered to the international airports. In addition, for joint-use with airport entities, the Heavy Cargo Pallet X-Ray, capable of x-raying full air cargo containers, will be field tested in July 1998.

The Customs Radiation Detection Program was developed in concert with the Department of Energy and the Department of Defense. This program is currently being implemented throughout the United States, and provides the nation with an effective first-line defense against the smuggling of dangerous nuclear materials into or out of the country.

Since October 1, 1997, the Customs Service has made many significant interdictions that support aviation safety and security at international airports that have received resources under this initiative. Customs has supported anti-terrorism and

aviation safety and security efforts by: responding to airline requests for screening luggage and cargo for weapons; working cooperatively with the FBI and airport entities to assist in effecting three terrorist-related arrests on aircraft; interdicting over 70 firearm seizures in baggage and cargo; and stopping over 60 shipments of hazardous materials and dangerous goods, which would have been placed on aircraft in violation of regulations.

To further improve the nation's defenses against terrorism, Customs is actively participating in Joint Terrorism Task Forces. Sponsored by the FBI, these task forces are located at 15 sites throughout the United States. Thirteen of these task forces are staffed with a full-time Customs agent funded under the 1996 Omnibus Appropriation. Two task forces are supported by part-time Customs agents not funded under the Omnibus Appropriation. These task forces were initiated by the FBI, who requested full-time Customs support in the investigation of terrorist activity at selected cities. Customs agents bring expertise to these task forces in matters of illegal exports, arms smuggling, international money laundering, and trans-border fraud. These agents can thus assist the Joint Terrorism Task Forces when dealing with terrorist groups who commit these crimes as a part of their activities. Additional staffing is available to supplement the task forces from Customs field office export group agents.

Pursuant to Presidential guidance on this matter, the Customs Service is coordinating its counter-terrorism efforts at the national level. To this end, Customs is providing personnel to support the FBI. This effort involves the assignment of intelligence research specialists and special agents to specific counter-terrorism units within the FBI. A special agent has been assigned to the FBI Weapons of Mass Destruction (WMD) unit within the Domestic Terrorism Section. A second special agent coordinates Customs antiterrorism program efforts with the FBI, other law enforcement agencies, and provides agent support to the intelligence community. Customs agents will assist the FBI in operational planning and investigation of terrorist activity, where there is Customs jurisdiction. Customs agents will also assist in FBI foreign and domestic training of law enforcement officers.

In an effort to contribute to the federal government's efforts to deter, disrupt, and defeat terrorism directed against the United States, the U.S. Customs Service, Intelligence and Communications Division has created a new section composed of intelligence specialists dedicated to uncovering the domestic and international terrorist financial support networks.

The Customs Service is also currently assigning Customs intelligence research specialists to support the CIA Counter Terrorism Center, and a special agent is assigned to the CIA Intelligence Directorate's Non-proliferation Center.

The Customs Service also seeks to combat terrorism through its investigative activity. Customs works to deny foreign states, identified with supporting or using terrorism, the means to subsidize terrorist groups or activities. Furthermore, the Customs Service actively conducts investigations to counter the proliferation of Weapons of Mass Destruction, especially as relates to nations which promote terrorism. These investigations include the unlawful exportation and smuggling of Weapons of Mass Destruction, or the components thereof. The Customs Service vigorously investigates the illegal export, or diversion, of dual use commodities as defined by the Export Administration Regulations. The Customs Service is also responsible for conducting investigations of violations of U.S. economic sanctions, as imposed by the Office of Foreign Assets Control, which primarily affect nations which have been found to support or employ terrorism, such as Libya, Iraq, Iran, North Korea, Cuba, and the Sudan.

The Customs Service is also providing training support to various antiterrorism and non-proliferation efforts both domestically and overseas. These programs include Customs antiterrorism training for agents and inspectors, the domestic radiation detection program, and several non-proliferation of Weapons of Mass Destruction initiatives in foreign countries.

To enhance some of the foregoing efforts, \$16 million was specifically authorized to further develop the Automated Targeting System (ATS) to identify cargo shipments that may pose safety or security threats. The ATS is a system that is used to assist in identifying importations which pose a substantial risk of containing weapons, explosives, or other contraband. The ATS provides a score, based upon numerical weights assigned to specific rules, which assist in targeting high-risk shipments for examination. The funds allocated for a targeting system under the antiterrorism initiative will be used to identify the architecture that will support the ATS for the air import and export environment, to build a set of rules that can be used for antiterrorism, and to procure hardware for airports. A prototype test of this system is scheduled to take place at JFK International Airport in June 1998.

Another way in which the Customs Service combats the proliferation of Weapons of Mass Destruction (WMD) and the threat of terrorism is through the delivery of international training and technical assistance to foreign border control agencies in high-threat countries. In cooperation with the Departments of State, Defense, Energy, and the Federal Aviation Administration, Customs has, for many years, been providing this type of assistance, both in the U.S. and overseas. The Cooperative Threat Reduction Program, Project Amber and the DOD/USCS Counterproliferation Program provide training and law enforcement equipment, mainly to the countries of Eastern and Central Europe and the former Soviet Union, and the Anti-Terrorism Assistance Program provides training worldwide.

The Customs Service has recognized the serious threat posed by terrorism groups, and is striving to meet the challenges of effectively preventing terrorism activity at U.S. borders. The foregoing initiatives are yielding positive results in enhancing the safety and security of the nation from trans-border terrorist activity. The Customs Service will continue to develop these programs, and additional technology, to combat this threat and fulfill its mission to protect the nation's borders. The Customs Service would like to thank the Chairman and Members of the Subcommittee for your interest, and the opportunity to provide you with this information.

PREPARED STATEMENT OF BRIAN MICHAEL JENKINS

Today's Senate hearing on terrorist activities in the United States comes at a crucial moment. As we have edged toward military action in the Middle East there has been growing fear that terrorists instructed by Iraq or some other Middle Eastern foe, or perhaps individually inspired by their opposition to U.S. policy will carry out attacks in this country. Although Saddam Hussein wisely uttered no public threats, less constrained extremist elements in the Arab world, some women with support networks in the United States, have.

The hearing, held five years almost to the day after the World Trade Center bombing, provides a forum for reviewing the current terrorist threat and for addressing the difficult question of what can be done to improve U.S. efforts against terrorist support activities in the United States. The answer is proceed with caution.

In the five years since the World Trade Center bombing, there have been more terrorist bombings as well as several foiled attempts. The terrorist threat is real. At the same time, it is important to keep it in perspective. An American has a 1 in 12,000 chance of being a victim of ordinary homicide, less than a 1 in 10 million chance of dying at the hands of a terrorist. Exaggerating the threat risks provoking the same panic and alarm that terrorists hope to create.

While the Senate hearing focuses on *foreign* terrorist activities, we must also bear in mind that the terrorist threat has a significant domestic component. With the exception of the discovery of a second bombing plot in New York shortly after the World Trade Center bombing and last year's uncovering of a scheme to bomb New York's subways, the remaining successful and foiled terrorist attacks have been the work of domestic terrorists—white supremacists, anti-abortion and anti-federal government extremists.

With tension in the Middle East so high, we might easily mislabel a terrorist attack, should one occur, blaming it on foreign rather than domestic foes. In the first hours after the Oklahoma City bombing, many people were convinced it was another Middle East attack.

In a nation of immigrants, imported quarrels are nothing new. Along with the wretched and the poor, we have taken in the firebrands and the bombers. In the past 25 years, Armenian, Serb, Croatian, Palestinian, Puerto Rican, Iranian, Libyan, Chinese, Cuban, and Jewish extremists have all carried out attacks in the U.S. And Immigrant communities have supported various armed struggles abroad. At the beginning of this century, Mexican revolutionaries recruited supporters on the streets of Los Angeles. Fifty years ago, American Jews actively supported the armed struggle to create a Jewish state in Palestine. Simply because a phenomenon has a long history does not make it more tolerable, but it does warn us not to define terrorism on grounds of ethnicity or national origin.

That said, the principal foreign terrorist threat to the United States right now comes from the Middle East: from anger at American support for Israel, from the hostility of Islamic fundamentalists who view American influence in the world as morally corrupting, potentially from Iraq and Iraqi sympathizers. That is not prejudice, but fact, which Americans of Middle Eastern origin must understand. It does not excuse discrimination; it counsels cool rhetoric on all sides.

Our first line of defense against terrorism is intelligence. As a free society, we place strict constraints on domestic intelligence gathering—Americans will not toler-

ate a pervasive secret police. The intelligence task is rendered more difficult by the trend away from formal hierarchies and toward small *ad hoc* conspiracies. Despite these difficulties, authorities have uncovered terrorist plots and prevented a number of attacks, some of which could have had disastrous consequences. The existence of these plots demonstrates that the terrorist threat continues. The arrests hopefully also underscore that intelligence efforts are succeeding and should be supported.

We must be realistic about what physical security, our second line of defense, can achieve. Physical security by itself cannot prevent terrorist attacks; it merely displaces the risk. We have made progress in increasing the difficulty of attacking certain targets previously favored by terrorists—notably commercial aviation. Much remains to be done in this area. Congress should support the recommendations made by the White House Commission on Aviation Safety and Security and encourage the airline industry to seriously approach the problem complementing the improving security technologies with adequately paid, trained, and incentivized personnel. In accord with a recent report issued by the International Institute for Surface Transportation Policy Studies, we also need to pay more attention to potential terrorist attacks on subways, trains, and buses—a new combat arena of terrorists bent upon large-scale indiscriminate violence.

Our third component of defense is an effective response comprising both crisis management and apprehension of the perpetrators. The World Trade Center and Oklahoma City bombings prompted municipal governments to plan how they would respond to large-scale terrorist attacks. The Department of Defense is placing greater emphasis on “home defense,” which will see an increased role for the National Guard. Coordination between local, state, and Federal authorities and among federal agencies will be crucial but predictably difficult.

As for apprehension and prosecution, that is a success story. Those responsible for terrorists attacks here and abroad have been brought to justice.

We want to prevent terrorists from utilizing the United States as a source of weapons, military training, and funds for terrorist attacks, but we do not want to drive their political supporters completely underground. It is not solely a matter of civil liberties. Their ability to operate above ground gives them something to lose if they carry out terrorist attacks here and it facilitates monitoring their activities. Laws that prevent flexibility could also prevent the U.S. government from sometimes playing a useful diplomatic role in helping to resolve conflicts.

Northern Ireland is a case in point, although perhaps a unique one. The United States has carefully used its influence to help broker negotiations between the Sinn Fein and the British and Irish governments. This diplomacy required a somewhat tortuous distinction between the “political” Sinn Fein and the “terrorist” IRA, and exquisitely choreographed meetings and statements in dealing with visiting Sinn Fein leaders—subtleties that sometimes dissolved in the old-fashioned ethnic politics at city level. The IRA’s desire to retain political and financial support from sympathetic Americans gave the U.S. government leverage to encourage moderation. It may work. The lesson: we oppose terrorism everywhere and support for it anywhere, but we must preserve some room for maneuver.

Our most effective defense against terrorism will come not from more surveillance, concrete barriers, metal detectors or from new laws, but from our own virtues: courage, continued dedication to our ideals of a free society, realism in our acceptance of risk, stoicism in the face of danger, common sense and the skepticism that comes with it, the avoidance of extremism, humanity and sense of community too fleetingly expressed when we mourn the victims—in sum, from a true patriotism.

PREPARED STATEMENT OF KENNETH R. MCKUNE, ACTING COORDINATOR FOR
COUNTERTERRORISM, DEPARTMENT OF STATE

Mr. Chairman, thank you for this opportunity to provide for the record for your hearing on foreign terrorist activities in the United States this statement relating to the Secretary of State’s designation of foreign terrorist organizations (FTO). This statement has been coordinated with the Departments of Justice and the Treasury, and represents the combined views of the Administration.

The State Department is the lead agency for dealing with terrorism overseas. Unfortunately, however, terrorists do not respect international boundaries any more than they respect human lives and common decency.

The Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”) added a new Section 219 to the Immigration and Nationality Act (“INA”), which authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the

Attorney General, to designate an organization as a "foreign terrorist organization" if the organization meets certain legal criteria.

The Secretary's designation on October 8, 1997, of thirty foreign terrorist organizations was the culmination of a massive interagency effort to identify foreign organizations that engage in terrorist activity and threaten U.S. national security or the security of U.S. nationals. Under the terms of the INA, terrorist activity includes not only certain acts of violence but also activities which provide material support to terrorist organizations, such as raising money, providing training, obtaining weapons or false documents, and recruitment. The designation process was truly a cooperative project, in which State worked closely with the Departments of Justice and the Treasury, the FBI and the intelligence community.

Congress included in the legislation a provision that allows a designated organization to challenge its designation in court. The provision also requires that the judicial review be based solely on the administrative record used by the Secretary in making the determination. This requirement necessitated that the administrative records be as thorough and comprehensive as possible to withstand possible judicial review. Gathering and evaluating information on a large number of terrorist organizations and reviewing the material for the administrative records was a labor- and time-intensive process involving many analysts and legal specialists from several Departments and agencies. The list of organizations included in the Department's annual "Pattern of Global Terrorism" was only a starting point. A much more detailed compilation and analysis of information was required for each organization to determine whether it met the statutory requirements for designation, and to produce a substantial administrative record that would withstand judicial review.

Following the mandated Congressional notification period, State formally promulgated the designations in the Federal Register on October 8, 1997, as required under the law. But we went beyond that requirement. The Secretary herself made the announcement at the Department's daily press briefing to help give the designations a high profile. The major media, including news agencies serving overseas outlets, carried the story. The designations were posted on both the State Department and Treasury Department's internet websites and disseminated by USIA. Officials from State and Justice appeared on USIA's Worldnet programs to discuss the issue. State, Justice, and Treasury took exceptional measures to ensure that the designations were widely disseminated and publicized.

There are three primary legal consequences of the designation of a foreign terrorist organization:

(1) It is a crime for anyone in the United States knowingly to provide funds or other forms of material support to the designated organization;

(2) U.S. financial institutions are required to block the funds of any designated organization and its agents and to advise the Treasury Department of such action; and

(3) Aliens who are members or representatives of a designated organization are not eligible to enter the United States.

It is difficult to quantify the impact of the law and designations after only four months. Clearly, criminal cases which involve the international tracing of funds require some time to develop. However, there are other aspects to consider—especially the potential deterrent effects. Congressional passage of the law, the President's signing it at a large public ceremony, and the process of designating foreign terrorist organizations were widely reported in the press. For those law abiding citizens who do not want to contribute to a terrorist organization, the law and publicity surrounding it should deter further contributions or other forms of material support.

Moreover, Justice, for the first time, will not have to prove during a criminal prosecution that the defendant specifically intended that the funds he was contributing were to be used for terrorist activity. It will only need to prove that a defendant knowingly provided material support to a designated foreign terrorist organization, regardless of how he intended the money to be used.

Internationally, passage of the AEDPA and the Secretary's designations have had a substantial impact. Several international fora have begun discussions on ways to limit the provision of funds and other resources to terrorist organizations. A number of foreign governments have commented favorably on the Secretary's designation of foreign terrorist organizations, including Colombia, Israel, Japan, Peru, Turkey, Spain and Sri Lanka.

The passage and implementation of the section 303 fund raising provision and the section 323 material support provision also enhance our efforts to encourage other countries to take similar steps, and some of our friends are taking a fresh look to see whether they should tighten their own domestic laws and regulations. We have distributed information on the legislation to our embassies overseas for use with their host governments. My office and the State Department's Legal Adviser's office

have given briefings to officials from a dozen or more embassies here as well as visiting foreign officials. We also make a point of discussing the legislation and fund raising issues during our bilateral and multilateral conferences with a number of countries.

As I noted earlier, the INA permits a designated foreign terrorist organization to seek, within 30 days of the designation, judicial review of that designation in the United States Court of Appeals for the District of Columbia Circuit. Only two organizations, the Liberation Tigers of Tamil Eelam (LTTE, of Sri Lanka) and the Mujahedin-e Khalq Organization (MEK, of Iran), have filed applications for judicial review. Both cases are currently before the court.

The provision of the statute which bases the Court's review on the administrative record is critically important to limiting the amount of discovery, particularly of classified information, which a designated foreign terrorist organization may obtain during the judicial review process. The statute also provides that the Court's review of any classified material contained in the administrative record will be conducted *ex parte* and *in camera*. This protection was important to the success of the designation process because it permitted the inclusion of classified information in the administrative records of the 30 designated organizations.

For each of the organizations, the Secretary had to rely heavily on classified information. Although the State Department often relies on finished intelligence in its decision-making process, it was the view of the Justice Department that, in reviewing an administrative record, a Court would want to understand more completely the underlying facts and analysis from which conclusions were drawn. For example, if a terrorist act was attributed to a particular organization, a Court would want to know the basis for that attribution. Without the protection of classified information from unwarranted disclosure, the Secretary would not have had the benefit of this information and analysis from the intelligence community to inform her decisions.

In sum, despite the tremendous burden of preparing in advance the required administrative records, we believe the AEDPA to be a useful law. It can be improved. We are presently engaged in developing possible refinements to the current statute based on our overall experience during the implementation process and upon Treasury's many years of experience in administering sanctions programs, such as the 1995 Executive order and sanctions regime against terrorists threatening the Middle East process. A number of suggestions for improvements are under internal discussion. Once we complete this interagency process, we would look forward—along with Justice, the FBI, and Treasury—to discuss possible improvements to AEDPA.

Finally, regarding your question concerning the Irish Republican Army, last October, the Secretary took note of the July 19, 1997 announcement by the IRA of an unequivocal cease-fire, as well as the subsequent decision by the British Government that the cease-fire was genuine in word and deed, permitting Sinn Fein to join inclusive all-party talks in Belfast. The situation, especially during the past week, has become very fluid. We are monitoring it very closely.

We hope that this statement will be useful to the Subcommittee and we look forward to being able to work together in our common fight against terrorism.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, April 21, 1998.

Hon. JON L. KYL,
*Chairman, Subcommittee on Technology, Terrorism, and Government Information,
Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for providing the opportunity for the Federal Bureau of Investigation (FBI) to appear before your Subcommittee at the February 24, 1998, hearing entitled "Foreign Terrorists in America: Five Years after the World Trade Center." I was unable to attend but would like to submit this letter for the official hearing record to supplement the FBI's testimony.

The bombing of the World Trade Center in New York City five years ago was a wake-up call to the American people and to law enforcement of the reality of foreign-directed terrorism on our soil. The impact of the bombing was felt well beyond New York City as we all came to realize that our borders were no longer impermeable to terrorist attack. In the five years since that tragic day, I am proud to have been a part of what has been an enormously successful, multi-faceted effort to reduce the threat of terrorism and enhance this Nation's ability to prevent and, when necessary, respond to terrorist acts. Although the FBI's official statement for the February 24, 1998, hearing record discusses these matters in detail, I would like

to briefly highlight three particularly noteworthy programs in which the FBI has been instrumental.

THE FBI'S COUNTERTERRORISM CENTER

One of the most notable endeavors undertaken since 1993 in the war against terrorism is the FBI's Counterterrorism Center. Established in 1996 with the generous support of congressional appropriations, the Center centralized the myriad facets of the FBI's Counterterrorism program and focused efforts on three fronts: International terrorism operations both within the United States and in support of extraterritorial investigations; domestic terrorism operations; and counterterrorism relating to both international and domestic terrorism.

The Counterterrorism Center is an interagency endeavor in which 18 other federal agencies participate on a daily basis. The FBI has forged stronger working relationships with these agencies, including the Central Intelligence Agency (CIA), as a result of the cooperation and shared focus of the Center's participants in combating terrorism. The establishment of the Center was an unprecedented opportunity for these 18 agencies to work together for a common good by sharing terrorist-related information developed by each agency. I am proud of the successful collaboration that the Counterterrorism Center represents and of the enhanced capabilities it has provided in our efforts to combat terrorism.

DOMESTIC PREPAREDNESS PROGRAMS

The FBI has also established, in conjunction with the Department of Defense, "Domestic Preparedness" programs to train and equip personnel both within and outside the FBI to address chemical and biological incidents, as well as incidents involving improvised explosive devices. Over \$21 million of the FBI's 1998 counterterrorism budget has been dedicated to train and equip local and state agencies to deal with these Weapons of Mass Destruction (WMD).

In addition, over \$8 million has been provided to the FBI's National Security Division, Critical Incident Response Group (CIRG), and Laboratory Division so they may train and equip each of our 56 field offices for such WMD incidents. Furthermore, due to increased funding from the Antiterrorism and Effective Death Penalty Act of 1996, the FBI has assigned 175 Special Agents to WMD programs throughout our field offices. While the focus should clearly be on *prevention* of terrorist attacks, provisions for *response* in case of an attack are essential. Domestic preparedness programs provide that preparation.

THE NATIONAL INFRASTRUCTURE PROTECTION CENTER

Another enormously important undertaking has been the National Infrastructure Protection Center (NIPC), a government/industry partnership hosted by the FBI. The NIPC is designed to be staffed with specialists from the FBI, Department of Defense, other Intelligence Community members, and private industry. The goal of this group is to provide a broad, cooperational approach to assessing, warning, investigating, and responding to attacks on this Nation's interconnected and interdependent information infrastructures. The increasingly complex and interwoven nature of information systems used in government operations, private corporations, and satellite and telecommunications systems makes the threat of even a single intrusion into one of these systems potentially catastrophic. The NIPC will provide 24-hour monitoring and connectivity among all levels of state, local, and federal government and our private sector partners.

Additionally, in 1995, "Targeting the National Information Infrastructure" was added to the FBI's National Security Threat List (NSTL) with the approval of the Attorney General. This expansion of the NSTL gives our Agents the authority to investigate incidents affecting information infrastructures perpetrated or coordinated by foreign intelligence services. This enhances the work of our seven Computer Crime Squads in our major metropolitan field offices, and the computer investigative teams in each of our 56 field offices. By establishing the NIPC, enhancing investigative authority, and dedicating Agents to detecting and investigating information-based attacks, we are limiting the vulnerability of our Nation's essential infrastructures.

While the Counterterrorism Center, Domestic Preparedness programs, and the NIPC have greatly enhanced our ability to combat terrorism here in the United States, I must stress that our progress will be eradicated should one overriding issue remain unaddressed.

THE CRIPPLING EFFECT OF ENCRYPTION

The ability to collect information and evidence that will aid in the apprehension of terrorists—and more importantly, aid in the prevention of terrorist acts—is critical to our counterterrorism efforts. Electronic surveillance and lawful searches and seizures are among law enforcement's most effective tools in gathering this type of information. The proliferation of technologies that enable criminals to encrypt information and communications transmitted or stored in computers or passed across telephone lines, however, is rapidly destroying the usefulness of these tools.

Recently, the Administration announced a 60-90 day effort to have industry come to the table with government to see if agreement can be reached on how best to preserve the ability of law enforcement to access the "plaintext" of encrypted communications pursuant to court order. If the critical public safety needs to law enforcement cannot be accommodated through this process, then I intend to continue to press for legislation that requires all encryption products manufactured in or imported into the United States to allow law enforcement access to key-recoverable plaintext versions of encrypted information.

Currently, encryption products are widely available, and for the criminal user afford a cheap way of ensuring that he can conduct his activities via telephone and computer without leaving any decipherable trail of evidence. I am joined by the entire law enforcement community in contending that non-recoverable encryption is perhaps the single biggest challenge facing law enforcement. For this reason, I strongly support the bill adopted by the House Permanent Select Committee on Intelligence on September 11, 1997. The Committee's mark-up of H.R. 695 effectively addresses all of law enforcement's public safety and national security concerns regarding encryption products, unlike several bills being considered in the Senate, all of which will devastate our ability to protect public safety if enacted. If the United States hopes to continue to wage a serious war against terrorism and drugs, legislation securing the public safety and national security needs in any national encryption scheme must be passed.

We must remember that Ramzi Yousef, responsible for carrying out the bombing of the World Trade Center, used his laptop computer to store encrypted details of his plot to bomb United States airliners and flight schedules. Fortunately, the FBI was able to decrypt this information which was recovered in the lawful seizure of Yousef's computer. Had the information been encrypted using a non-recoverable type of encryption, the plan to plant explosive devices on flights to the United States might never have been discovered and thus prevented.

Today, five years later, most encryption products on the market are, in fact, non-recoverable; law enforcement attempts to decipher the information, pursuant to court authorization, are unsuccessful. We must recognize the valuable lessons learned from the World Trade Center bombing and support law enforcement efforts to combat terrorism. There can be no clearer indication of such support than by providing law enforcement access to key-recoverable "plaintext" versions of encrypted information.

In the five years since the World Trade Center bombing, the FBI has made significant progress in combating terrorism in the United States; the Counterterrorism Center, the Domestic Preparedness programs, and the NIPC each evidence the great strides we have made in protecting this Nation from terrorist attack. Unfortunately, these and other efforts will have been in vain if would-be terrorists are allowed to utilize encryption technology with impunity.

Sincerely yours,

LOUIS J. FREEH,
Director.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 31, 1998.

Hon. DORIS MEISSNER,
*Immigration and Naturalization Service,
Department of Justice, Washington, DC.*

DEAR COMMISSIONER MEISSNER: We are concerned that the INS has failed to commit the resources necessary to develop in a timely way the Foreign Student Tracking Program mandated by Congress in 1996, P.L. 104-208 §641. While the law required the national program to begin on January 1, the INS has yet to implement even the pilot program. As you are well aware, this tracking program was borne out of national security concerns expressed by FBI Director Freeh and former Dep-

uty Attorney General Jamie Gorelick in 1995 about the inability of the INS to track foreign students' whereabouts, courses of study, and sources of funding. An INS task force created to address these issues stated that the "guiding principle to [its] effort" was that "the American public needs to have some basic level of comfort in the knowledge that its government is guarding against the danger. * * * [of] instances where terrorists and criminal aliens have been linked to student visas". In 1996, this report became the basis for a law requiring INS to develop a national system for tracking foreign students.

In response to this mandate, INS prudently initiated development of a pilot program in preparation for developing the national system. Our understanding is that to date INS has had to spend only about \$3 million on developing the pilot, and that only another \$2 million is required to get the pilot up and running in the near future. However, immediately prior to Chairman Kyl holding a hearing in the Judiciary Subcommittee on Technology, Terrorism, and Government Information on February 24, INS management cut funding to mere "maintenance" of an incomplete pilot, and cut out all funding for development of the national program. It was only after public discussion by Senators Kyl and Ranking Member Feinstein about this program that INS reallocated the funds necessary for development through 1998. We find this record disturbing.

In that light, below are questions which we believe require clarification. Your responses will be entered into the record of the February 24 subcommittee hearing.

Value of program to counterterrorism efforts. What is your assessment of the value of this program to INS' overall counterterrorism efforts?

INS commitment to the program. Have you made the commitment to continue full funding for information technology development and the program support of this system necessary for implementation and deployment?

Status of national development. Considering that this Congress appropriated nearly \$4 billion to INS this past year, can you tell me the exact funding levels committed for development of the pilot in 1998? For the national development of the program in 1998? Through 2001?

Request for demonstration. Please make available an operational demonstration of the currently developed prototype for our staffs.

Sincerely,

JON KYL,
U.S. Senator.

RICK SANTORUM,
U.S. Senator.

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, DC, August 20, 1998.

Hon. JON KYL,
Chairman, Subcommittee on Technology, Terrorism, and Government Information,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your March 31 inquiry regarding your support of the Immigration and Naturalization Service's (INS) efforts to develop an effective foreign student/exchange visitor monitoring and reporting system as mandated in Section 641 of Public Law 104-208. As stated in our July 16 letter to you, the INS implemented last year a cooperative interagency pilot initiative in partnership with the U.S. Information Agency (USIA) and the Department of State (DOS) for monitoring and reporting on F academic students, M vocational students, and J exchange visitors. The pilot is known as the Coordinated Interagency Program Regulating International Students (CIPRIS). Phase I of the CIPRIS pilot was implemented in April of last year, well before the statutory start date of January 1, 1998. Subsequent major operational enhancements to the CIPRIS pilot were developed in September 1997 and April 1998 respectively.

When it commenced in April of 1997, the CIPRIS pilot was in limited operation, enabling the 21 pilot schools to create an initial student record electronically and immediately transmit it via the Internet to the INS' CIPRIS system. By early April of this year we successfully implemented a fully functional pilot electronic tracking, screening, and reporting of students and exchange visitors by the pilot schools to INS' CIPRIS system through deployment of the Phase III CIPRIS pilot enhancements to all the pilot institutions, the USIA, the INS Texas Service Center, and our Port-of-Entry at Atlanta-Hartsfield International Airport.

There was a very brief period in which the full funding necessary to continue operational support for full enhancement of the pilot and funds to continue to develop requirements for a national CIPRIS program had to be identified. The CIPRIS contractor support for program and national development was interrupted for only a brief period. Funds, however, were allocated to support full pilot enhancements and continued development of the functional requirements for a national system.

Our July 16 letter addressed your March 31 questions. The same basic information follows, with additional clarification of INS' Fiscal Year 2000 funding plans for CIPRIS. As mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), the Fiscal Year 2000 budget will include a provision to begin collecting a fee for this program. The fees collected will fund continual implementation of the program.

Question 1. Value of program to counter terrorism efforts. What is your assessment of the value of this program to INS' overall counter terrorism efforts?

Answer. The INS maintains various databases relating to the entry, exit, and immigration status of foreign nonimmigrants such as visitors, students, temporary workers, and diplomats. These systems are integral to our mission of maintaining control of our borders. A peripheral benefit of these systems, in concert with the databases of other government agencies, is the tracking of the movements and activities of persons who are subjects of law enforcement or national security interest. There are diverse reasons for tracking the educational activities of foreign students. Among those are non-proliferation of sensitive scientific information and prevention of the release of such information to terrorist supporting states or states which may be regarded as real or potential military rivals of the United States. A system such as CIPRIS, if instituted nationally, would increase our ability to track such data efficiently and improve our ability to implement laws or policy which restrict the availability of such information.

Question 2. INS commitment to the program. Have you made the commitment to continue full funding for information technology development and the program support of this system necessary for implementation and deployment?

Answer. The INS is identifying funding options for Fiscal Year 1999 to continue planned development and is in the midst of developing the Fiscal Year 2000 budget estimates. As mentioned above, we expect the program to be funded through fees as mandated in IIRIRA beginning in Fiscal Year 2000. At this point, we believe that the phasing in of CIPRIS will reach completion in 2002.

Question 3. Status of national development. Can you tell me the exact funding levels committed for development of the pilot in Fiscal Year 98: For the national development of the program in Fiscal Year 1998? Through 2001?

Answer. For Fiscal Year 1998, the INS is providing \$3.2 million for the full funding required for program support, operation and maintenance of the pilot, as well as to support programmatic and Information Technology functional requirements for national development of the program. For Fiscal Year 1999, as noted previously, the INS is identifying funding options to continue development. Beginning in Fiscal Year 2000, the system should be self-supported through fees.

Thank you for your continued interest in this important program. Should have any further questions or concerns regarding this or any other matter, please do not hesitate to contact me.

Sincerely,

DORIS MEISSNER,
Commissioner.

ISLAMIC INFORMATION CENTER,
Phoenix, AZ, May 22, 1998.

In the Name of Allah, Most Gracious, Most Merciful.

Senator JOHN L. KYL
U.S. Senate, Washington, DC.

DEAR SENATOR KYL: We Muslims are very concerned and are therefore writing to request your assistance in correcting a terrible injustice which has been perpetrated against millions of law abiding citizens who live in the United States.

In reviewing a statement made by Mr. Steven Emerson, a known opponent of Islam, to the Senate Judiciary Subcommittee on Terrorism, Technology and Government Information, we detected several gross inaccuracies about Islam and Muslims. If left without correction, this false information could lead those who make policy decisions to reach many wrong conclusions about Muslims.

As was the case following the Oklahoma City bombing, Mr. Emerson has distorted the facts and made numerous false statements; which leads us to conclude that Mr. Emerson is being less than just when it concerns the Muslims. It concerns us that his comments are being taken seriously without being verified for accuracy. Why were Muslims singled out as they were; and why wasn't an Islamic organizations such as ISNA, ICNA, or the American Muslim Council invited to present balance to the hearings. Omar Ashmawy's comments about "moderate" versus "extreme" Muslims in no way represents the Muslim body within the United States.

We recognize that there are fanatics in every segment of society who will use religion as an excuse to justify their hostility, yet, this fact should never be used as an excuse for denying justice to others. Anyone knowledgeable about Islam knows that it is forbidden to kill innocent men, women, or children, and that the punishment for this is Hell. The ideology of Islam is the same as the ideology and teachings of Abraham, Moses, and Jesus, you will find this for yourselves if you read the Qur'an. The same message was preached by all of them, "worship one God, the Creator of the Heavens and Earth, and associate no partners with God."

We also recognize that it is important to the security of the United States that proper intelligence information is gathered, that it is the responsibility of those gathering such information to ensure that it is accurate, and that misinformation should not be used in such a way as to injury the innocent. Mr. Emerson made false and inflammatory statements following the Oklahoma City bombing which resulted in assaults on innocent Muslims, an innocent Muslim died, and others were terrorized. This occurred because of one man's hatred and the unwillingness of others to search for the truth.

We strongly request that our enclosed write-up be attached as an addendum to the hearings. As you will surely agree, a just and balanced approach is clearly the best way to ensure the safety and security of every citizen within the United States. We also urge the Senate to involve a recognized Islamic organization the next time a hearing touches on Islamic issues.

On behalf of the Public Relations Subcommittee of the Islamic Information Center in Arizona, and all the Muslim constituents in Phoenix, thank you for your assistance.

GAMAL M. HEGAZI.
AMMAR HALLOUM.
DAVID HADLEY.
HAFEZ TURK.
ANEESAH NADIR.

cc. Senate Subcommittee members.



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